

(19,899.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 397.

THE MICHIGAN CENTRAL RAILROAD COMPANY,
APPELLANT,

vs.

PERRY F. POWERS, AUDITOR GENERAL OF THE STATE
OF MICHIGAN

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE
WESTERN DISTRICT OF MICHIGAN.

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- 1 The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
 vs.
 PERRY F. POWERS, Defendant. }

Bill of Complaint.

O. E. Butterfield, solicitor for complainant.
 Henry Russel, Ashley Pond, of counsel.

- 2 The Circuit Court of the United States, for the Western District of Michigan, Southern Division. In Equity.

To the honorable the judge of the circuit court of the United States for the western district of Michigan :

Your orator, The Michigan Central Railroad Company, in behalf of itself and of all other corporations whose names appear upon the alleged tax rolls hereinafter mentioned, who shall in due time come in and seek relief by and contribute to the expenses of this suit, files this bill of complaint against Perry F. Powers, the duly elected, qualified and acting auditor-general of the State of Michigan, and respectfully shows and alleges :

1. That your orator is and at all times hereinafter mentioned was a corporation organized and existing under and by virtue of act No. 42 of the session laws of the State of Michigan of 1846 and the laws of the State of Michigan providing for the organization of railroad companies; that it owns and operates, and since 1901 has owned and operated a railroad within the State of Michigan; that its property in the State includes a large amount of lands and real estate;

That it operates, manages and control the railroad property of the following corporations, a portion of which said property is situated within the State of Michigan, and is obliged by agreement with the respective companies to pay all legal taxes levied and assessed by the State of Michigan upon the property of said companies, or either of them :

- 3 Battle Creek & Sturgis Railway Company ;
 Bay City & Battle Creek Railway Company ;
 Buchanan & St. Joseph River Railroad Company ;
 Canada Southern Bridge Company ;
 Detroit & Bay City Railroad Company ;
 Detroit, Delray & Dearborn Railroad Company ;
 Grand River Valley Railroad Company ;
 Jackson, Lansing & Saginaw Railroad Company ;
 Kalamazoo & South Haven Railroad Company ;

Michigan Air Line Railroad Company ;
 Michigan, Midland & Canada Railroad Company ; and
 Toledo, Canada Southern & Detroit Railway Company ;
 and that Perry F. Powers, defendant herein, is a resident of the city
 of Cadillac, in the county of Wexford, in the State of Michigan, in
 the said district, and is a citizen of the State of Michigan and of the
 western district thereof, and that he was heretofore duly elected
 auditor-general of Michigan, has duly qualified as such officer, and
 is now in possession of said office and discharging the duties thereof.

2. That on or about February 1st, 1903, acting as the State board
 of assessors of Michigan, under and by virtue of the alleged authority
 of an act of the legislature of said State known as act No. 173 of the
 public acts of 1901, approved May 27, 1901, Amariah F. Freeman,
 William T. Dust, Ira T. Sayre and James C. McLaughlin, delivered
 to said defendant an alleged tax roll upon which they had placed
 and described the property of your orator and of the corporations
 hereinbefore mentioned, and of others, and had made an assessment
 of the property of your orator and of such others and had levied
 what said Freeman, Dust, Sayre and McLaughlin and said defend-
 ant claimed to be, and intended and proposed to enforce against
 your orator and such others as, a tax upon the property of your
 orator and such others ; that the assessment so placed upon

4 the property of your orator and the corporations hereinbefore
 mentioned were as follows :

Michigan Central Railroad Co.....	\$27,500,000 ;
Battle Creek & Sturgis Ry. Co.....	290,000 ;
Bay City & Battle Creek Ry. Co.....	150,000 ;
Buchanan & St. Jos. River Railroad Co.....	10,000 ;
Canada Southern Bridge Co.....	300,000 ;
Detroit & Bay City Railroad Co.....	3,500,00- ;
Detroit, Delray & Dearborn Railroad Co....	50,000 ;
Grand River Valley Railroad Co.....	1,400,000 ;
Jackson, Lausing & Saginaw Railroad Co.....	4,500,000 ;
Kalamazoo & South Haven Railroad Co.....	325,000 ;
Michigan Air Line Railroad Co.....	1,875,000 ;
Michigan, Midland & Canada R. R. Co.....	100,000 ;
Toledo, Can. Sou. & Detroit Ry. Co.....	5,000,000 ;

that the tax so placed upon the property of your orator and the cor-
 porations hereinbefore mentioned was as follows :

Michigan Central R. R. Co.....	\$376,448.88 ;
Battle Creek & Sturgis Ry. Co.....	3,969.82 ;
Bay City & Battle Creek Ry. Co.....	2,053.36 ;
Buchanan & St. Jos. River R. R. Co.....	136.89 ;
Can. Sou. Bridge Co....	4,106.72 ;
Detroit & Bay City R. R. Co.....	47,911.68 ;
Detroit, Delray & Dearborn R. R. Co.....	684.45 ;
Grand River Valley R. R. Co.....	19,164.67 ;

Jackson, Lansing & Saginaw R. R. Co.....	61,600.73 ;
Kalamazoo & So. Haven R. R. Co.....	4,448.94 ;
Michigan Air Line R. R. Co.....	25,668.97 ;
Michigan, Midland & Canada R. R. Co.....	1,368.91 ;
Toledo, Can. Sou. & Detroit Ry. Co.....	68,445.25 ;

and that attached to said alleged tax roll and made a part thereof by said Freeman, Dust, Sayre and McLaughlin, was a certificate, of which the following is a copy :

5 "STATE OF MICHIGAN, } ss:
County of Ingham, }

We do hereby certify that we have set down in the above assessment roll all the property of railroad companies, express companies, union station and depot companies, car loaning, refrigerator and fast freight lines, and other car companies liable to be taxed in this State, according to our best information, and that we have estimated the same at what we believe to be the true cash value thereof, and that we have assessed the taxes thereon at the average rate of taxes for State, county, township, school, municipal and other purposes levied through the State during the present year as determined by us.

In witness whereof, the undersigned, a majority of the members of the State board of assessors for the State of Michigan, have signed this certificate at the State capitol, in the city of Lansing, State of Michigan, this twenty-ninth day of January, A. D. 1903.

Members of the State Board of Assessors in and for the State of Michigan. { AMARIAH F. FREEMAN.
WILLIAM T. DUST.
IRA T. SAYRE.
JAMES C. McLAUGHLIN."

Your orator further says that until the decision of the supreme court of Michigan, hereinafter mentioned, defendant claimed that said taxes so extended upon said assessment roll, including the tax extended thereon against the property of your orator, constituted a debt from the several companies against which they were extended, including your orator, to the State of Michigan; and intended to proceed, and but for said decision of the supreme court of Michigan and restraint by this court would have proceeded to enforce said alleged tax against the property of your orator and of such others by the measures and proceedings provided for collection of such taxes in said act No. 173 of the public acts of 1901.

6 Your orator further shows and alleges that the average rate of taxes mentioned in said foregoing certificate, dated January 29th, 1903, and theretofore ascertained and determined by said Freeman, Dust, Sayre, and McLaughlin, was \$13.68905 per one thousand dollars of the value of the general properties of the State as determined by them; with average rate of taxation said Free-

man, Dust, Sayre, and McLaughlin determined by taking the whole amount of taxes levied upon the property of the State assessed under other laws than said act No. 173, as derived from the records of taxation for the State and the several counties, townships, school districts and municipalities in the State for the year 1902, and as so found by them to be the sum of \$23,476,733.55, and dividing the same by the sum of \$1,715,000,000, which was found by said Freeman, Dust, Sayre, and McLaughlin to be the total true cash value of the property upon which said ad valorem taxes were assessed for said year 1902 for State, county, township, school and municipal purposes; and your orator further says that in ascertaining said average rate of \$13.68905 per one thousand dollars of value said Freeman, Dust, Sayre, and McLaughlin construed said act No. 173 and the constitution of the State of Michigan as authorizing them to equalize the assessed valuations put upon the property of your orator and others on said alleged tax roll with the assessed valuations placed upon other property generally in the State upon which ad valorem taxes were levied, so that the value of the other general property of the State used in computing said average rate of taxation, as aforesaid, should be the aggregate actual cash value of all such other general property in the State; that the aggregate assessed valuation of the general property of the State as assessed by the assessing officers of the several municipalities of the State was \$1,418,251,858, or \$296,748,942 less than the actual or true cash value thereof, as found by said Freeman, Dust, Sayre and McLaughlin as aforesaid.

7 Your orator further shows and alleges that after the aforesaid proceedings and after the first day of February, 1903, such proceedings were had in the supreme court of the State of Michigan, in a certain cause wherein the board of education of the city of Detroit was the petitioner and the State board of assessors was respondent, that the constitution of Michigan and the said act No. 173 were held by said supreme court to confer upon said State board of assessors no discretion whatever in the determination of the property value used as a divisor in the calculation of the average rate of taxation to be applied under said act No. 173, and to limit said State board of assessors in their ascertainment of such average rate of taxation to the ministerial function of dividing the aggregate of the taxes levied in the State for the purposes aforesaid by the aggregate assessed valuation of the other general property of the State, assessed by the various local assessing officers in said State and not under said act No. 173; that such actual assessed valuation for the year 1902 of the general property of the State assessed otherwise than under said act No. 173 was \$1,418,251,858, which if used as a divisor of the ad valorem taxes found by said Freeman, Dust, Sayre, and McLaughlin to be levied on said property would give as the average rate of taxation \$16.55329 per one thousand dollars of assessed valuation; and that said supreme court of Michigan thereupon ordered a writ of mandamus to issue, commanding said State

board of assessors to re-assemble and re-ascertain the average rate, in accordance with such decision of said court, and with such state of the facts, as to the actual assessed valuation of the general property of the State assessed otherwise than under said act No. 173.

Your orator further shows and alleges that after such decision of the supreme court of Michigan, said Freeman, Dust, Sayre, and McLaughlin reconvened as said State board of assessors and proceeded in accordance with said decision to re-ascertain and determine the average rate of taxation, and did so ascertain and determine it at said amount of \$16.55329 on each thousand dollars of assessed valuation; that said Freeman, Dust, Sayre, and McLaughlin thereupon adopted and signed and promulgated the following statement:

"Statement of the method pursued by the State board of assessors in re-ascertaining and re-determining, in accordance with the provisions of act No. 173 of the public acts of 1901, section 11 of art. XIV of the constitution, and the order of the supreme court of the State of Michigan, the average rate of taxation herein recorded.

The said State board of assessors, in accordance with and within the time fixed by said act No. 173, required and received from the several counties and municipalities throughout the State, the reports and information provided for and required by said act 173 of the public acts of 1901; and after the determination by the said supreme court that the taxes previously levied by it under the provisions of said act were illegal for the reason that such average rate was not ascertained and determined according to law, proceeded thereon in accordance with the provisions of said act, constitutional provision, and the order of said court to re-ascertain and re-determine the average rate of taxation throughout the State upon property (other than that subject to assessment by the State board of assessors under said act) upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes for the year 1902 as follows:

(a.) It ascertained from the said reports and information so received that the aggregate ad valorem taxes levied in the several municipalities and the several counties of the State for State, county, township, school and municipal purposes (not including taxes levied for any other purposes) for the year 1902 was the sum of \$23,476,733.55.

(b.) It examined and considered the said reports and information so required and received and from the same ascertained and determined the aggregate assessed valuation of all the property in the State upon which ad valorem taxes were levied for State, county, township, school, and municipal purposes for the year 1902 (other than that subject to assessment by the State board of assessors) as assessed by the several assessing officers of the several municipalities of the State to be the sum of \$1,418,251,858.

(c.) The average rate was then determined to be \$16.55329 on each \$1,000 of assessed valuation, by dividing the total taxes so levied in the amount so determined by the total assessed valuation of property subject to ad valorem taxes for State, county, township, school and municipal purposes found as aforesaid.

Done at the city of Lansing, Mich., this 6th day of May, 1903.

AMARIAH F. FREEMAN.
IRA T. SAYRE.
WILLIAM T. DUST.
J. C. McLAUGHLIN."

Your orator further shows that said Freeman, Dust, Sayre and McLaughlin, acting as the State board of assessors of Michigan, under and by virtue of the alleged authority of said act No. 173 of the public acts of 1901, thereupon, on or about May 6th, 1903, prepared an alleged new tax roll upon which they placed and described the property of your orator and of others and made an alleged assessment of the property of your orator and of such others and levied what said Freeman, Dust, Sayre and McLaughlin and said defendant claims to be, and what is, if said act of the legislature of the State of Michigan and said proceedings thereunder are valid, a tax upon the property of your orator and of such others; that the assessment so placed upon the property of your orator is the same as was made and stated in said first tax roll prepared by said Freeman, Dust, Sayre and McLaughlin, and the tax so placed upon the property of your orator and said corporations in such new alleged tax roll is as follows:

Michigan Central R. R. Co.....	\$455,215.48;
Battle Creek & Sturgis Ry. Co.....	4,800.45;
Bay City & Battle Creek Ry. Co.....	2,482.99
Buchanan & St. Jos. River R. R. Co.....	165.53;
Canada Southern Bridge Co.....	4,965.99;
Detroit & Bay City R. R. Co.....	57,936.51;
Detroit, Delray & Dearborn R. R. Co.....	827.66;
Grand River Valley R. R. Co.....	23,174.60;
10 Jackson, Lansing & Saginaw R. R. Co.....	74,489.81;
Kalamazoo & South Haven R. R. Co.....	5,379.82;
Michigan Air Line R. R. Co.....	31,037.42;
Michigan, Midland & Canada R. R. Co.....	1,655.33;
Toledo, Canada Sou. & Detroit Ry. Co.....	82,766.45;

that by the proceedings aforesaid the taxes sought to be levied upon the property of your orator and the other companies aforesaid are increased more than \$125,00000, as compared with those levied upon the first alleged tax roll upon the same, or increased from \$616,007.27 to \$744,898.04; that attached to said alleged tax roll and made a part thereof by said Freeman, Dust, Sayre and McLaughlin are their aforesaid statement concerning the manner of

their re-ascertaining and determining the average rate of taxation, and also a certificate, signed by said Dust, McLaughlin and Freeman, of which the following is a copy:

"STATE OF MICHIGAN, }
County of Wayne, } ss:

We do hereby certify that in accordance with the provisions of act 173 of the public acts of 1901 and the order of the supreme court of the State of Michigan, we have made and prepared a duplicate of the original assessment roll made by us in accordance with the provisions of said act 173 of 1901, upon which was set down all the property of railroad companies, express companies, union station and depot companies, car-loading, stock car, refrigerator and fast freight line and other car companies liable to be taxed by the State board of assessors, and that we estimated the value of said property and extended it upon such original assessment roll at what we believe to be the true cash value thereof, and that we have assessed the taxes upon such duplicate assessment roll at the average rate of taxes for State, county, township, school and municipal purposes levied throughout the State during the year 1902, as re-ascertained and re-determined by us in accordance with the provisions of said act and said order of said supreme court.

11 In witness whereof, the undersigned, a majority of the members of the State board of assessors for the State of Michigan have signed this certificate this ninth day of May, A. D. 1903.

WM. T. DUST,
J. C. McLAUGHLIN,
AMARIAH F. FREEMAN,
Members of the State Board of Assessors."

Your orator further shows and alleges that the assessment made against the property of your orator by said Freeman, Dust, Sayre and McLaughlin in both the alleged tax rolls prepared by them, as aforesaid, was determined and found by them to be the true cash value of the property of your orator, and the full actual value thereof; that, as your orator is informed and believes, the assessment made by the assessing officers of the State other than said State board of assessors upon the general property of the State assessed otherwise than under said act No. 173 in 1902 were and for many years before regularly had been much less than the true cash and actual value of such property, and not over eighty per cent. of such true cash and actual value; that said Freeman, Dust, Sayre and McLaughlin, in their preparation and adoption of the first mentioned tax roll, found and determined such assessments upon the general property of the State assessed by others than themselves to have been in 1902 much less than the true cash and actual value of the property, and about eighty per cent. of such true cash and actual

value; that, as your orator is informed and believes, it was in 1902 and for many years theretofore had been the custom and general practice and purpose and intent of the assessing officers of the State generally to make their assessments for the purposes of taxation less than the true cash and actual value of the assessed property, and

12 that while such under-assessment made by the local assessors in the various counties, towns, cities, school districts and other assessing districts of the State varied in different districts, being in many instances as low as fifty per cent. of the true cash and actual value, it was the habit and purpose of the assessors, in 1902 and prior years, to maintain as to the property of different owners in the same assessing district the same general ratio of assessed to full value, and such ratio seldom exceeded eighty per cent.; and your orator avers that such general under-assessment of the property of the State assessed otherwise than under said act No. 173 in 1902 and in prior years was not the result of accident, but that the assessment made in the year 1902 by the assessing officers generally, and in a great number of the different and various assessment districts in the State of the property of the State assessed otherwise than under said act No. 173, were intentionally made by them at less than the true cash value of the property assessed, and that the assessment so made did not express the real judgment of the assessing officers making the assessment in respect to the true cash value of the property assessed by them, and thereby a greater rate and burden of taxation was put by said board of assessors upon the property of your orator by their said action of May 6th than would have been put thereon if such assessment had been made by said assessing officers as required by law, to the extent, as your orator believes, of twenty per cent. of the taxes levied upon the property of your orator by said State board of assessors, which more fully appears from the affidavits and exhibits hereto attached, marked Exhibits A, B and E, which your orator prays may be taken as a part of this bill, and to such extent of such tax the collection thereof would deprive your orator of its property without due process of law, and deny to your orator the equal protection of the laws, in contravention of the provisions of the 14th amendment of the Constitution of the United States.

Your orator further shows and alleges that the State board of equalization at its meeting in the year 1901, being its most
13 recent session, ascertained and determined the aggregate value of the general property of the State not assessed under act No. 173 upon which ad valorem taxes were assessed to be the sum of \$1,578,100,000, whereas the aggregate assessed valuation of said property in the same year was the sum of \$1,335,109,918, or only 84.6 per cent. of its value as determined by the State board of equalization.

A copy of said proceedings of said State board of equalization is hereto attached, marked Exhibit F, which your orator prays may be taken as a part of this bill.

Your orator further shows and alleges that all of the proceedings of said Freeman, Dust, Sayre and McLaughlin in re-ascertaining the average rate of taxation, as aforesaid, and in making their second alleged duplicate tax roll and in all others of their transactions subsequent to the said decision of the supreme court of Michigan were without any notice to your orator or the others whose property purports to be assessed in said tax roll, and were without any knowledge on the part of your orator or of such others as to the time or place of such proceedings; and that neither your orator nor any of such others at any time appeared or was present or represented in any way at any of said proceedings; and your orator further says that at the time of the hearing of your orator and the others mentioned in said tax rolls in the course of the proceedings which resulted in said first alleged tax roll, said Freeman, Dust, Sayre and McLaughlin had already made their first determination of the average rate of taxation and had already entered such average rate of taxation upon their records, and that said Freeman, Dust, Sayre and McLaughlin had in their aforesaid first determination of the average rate of taxation fixed it with a view to making the proper equalization between the assessments made by them under said act No. 173 upon the property of your orator and such others mentioned in said tax rolls and the general property of the State assessed otherwise than under said act No. 173, and therefore

14 declined to enter upon any question or consider any evidence concerning an equalization of their assessments with the other assessments in the State by an appropriate reduction of the assessed valuations to be made by them; that the denial by the supreme court in its said decision of the existence of any authority in said Freeman, Dust, Sayre and McLaughlin to increase to what they found was its true cash value, the valuation of the property generally in the State, imposed upon the property of your orator and said other companies a tax about one-fourth greater than is imposed upon property generally in the State of equal value.

Your orator further shows and alleges that since May 6th, 1903, said Freeman, Dust, and McLaughlin, acting as a majority of the State board of assessors of the State of Michigan under and by virtue of the pretended authority of said act No. 173, have delivered to the defendant their last aforesaid tax roll, upon which the property of your orator and such others is placed and described, as aforesaid, and a pretended assessment of the property of your orator and such others is made and a pretended tax upon such property is levied, in the amount as to your orator's property already stated; and that defendant claims that the taxes so extended upon said last tax roll, including the tax extended thereon against the property of your orator, constitutes a debt from the several companies against which such tax is extended, including your orator, to the State of Michigan, and constitutes a lien upon the property of your orator and such others, real, personal and mixed, within the State of Michigan, having precedence of all demands, judgments, as-

signments by warranty deed or otherwise, or decrees against your orator or such others, and that said lien and debt may be by said defendant enforced by seizure and sale of said property or such portions thereof as may be necessary to satisfy the same at any

time hereafter; and your orator further says that the
15 said alleged lien constitutes a cloud upon the title of your orator and of such others against whom said alleged taxes have been extended, as aforesaid, to their respective properties, including their said lands and real estate, and that said defendant, unless restrained by this court, will proceed forthwith, as your orator is informed and believes, to enforce said alleged tax and said alleged lien against the property of your orator and of such others by distress and by seizure and sale of such property, thereby causing your orator and such others irreparable injury. Your orator avers that there is no provision of law in the State of Michigan or otherwise by virtue of which your orator or either of such corporations may bring an action at law or institute proceedings against the State of Michigan to recover back moneys which it or either of said corporations may pay or which may be collected from it or either of them for or on account of said taxes.

Your orator alleges that the said pretended assessments and taxes made in said second alleged tax roll against the property of your orator and the others mentioned in such tax roll are invalid for the reasons, in addition to the other reasons set forth in subsequent paragraphs of this bill, that they were made without any opportunity to your orator or such others to appear or be heard concerning them and without any actual appearance or hearing of your orator or such others concerning them, and in contravention not only of the constitution of Michigan but also of the provisions of the fourteenth amendment to the Constitution of the United States, requiring that no person shall be deprived of his property without due process of law, and that no State shall deny to any person the equal protection of the laws, and further that the aforesaid proceed-

ings of the assessing and taxing officers of Michigan and said
16 pretended assessments and taxes against the property of your orator and said others founded thereon result in an attempted taxation of the property of your orator and such others at about one-quarter more in proportion to its value than other property generally is taxed in the State, and thereby contravene not only the constitution of the State of Michigan but also those provisions of the fourteenth amendment to the Constitution of the United States, already mentioned in this paragraph, and that to the extent at least that such pretended taxes are thus greater than the taxes upon property generally of equal value, the said proceedings are null and void.

3. Your orator further shows that neither it nor any of the corporations hereinbefore mentioned, have, nor since 1901, have had any property in the State of Michigan, except in the counties of

Wayne.

Berrien.

Lapeer.

Monroe.

Ingham.

Genesee.

Washtenaw.	Eaton.	Tuscola.
Jackson.	Barry.	Bay.
Calhoun.	Kent.	Gladwin.
Branch.	Clinton.	Ogemaw.
Kalamazoo.	Saginaw.	Roscommon.
St. Joseph.	Shiawassee.	Crawford.
Van Buren.	Maconb.	Otsego.
Cass.	Oakland.	Cheboygan.

and that there are and since 1901 have been fifty-two counties and very numerous other political subdivisions in the State of Michigan (including cities, towns, villages, school districts and road districts) in which neither your orator nor such other corporations have, nor since 1901, have had any property whatsoever.

17 4. Your orator is advised and submits that said act under which said Freeman, Dust, Sayre, and McLaughlin proceeded, as aforesaid, and defendant proposes to proceed, as aforesaid, is repugnant to the provisions of article XIV of the amendments to the Constitution of the United States, in that its enforcement would deprive your orator and such others against whom the aforesaid proceedings have been had and are intended, of their property without due process of law, and would deny to your orator and such others the equal protection of the laws, in the following several respects, to-wit:

(a.) Said act applies to corporations doing business as railroad companies, union station and depot companies, express companies, car loaning companies, refrigerator and fast freight line companies, and does not apply to joint stock companies or associations, partnerships or natural persons and other corporations having property of the same sort in the same business and put to the same uses under identical conditions within the State; and your orator avers that at the time of the passage of said act No. 173, there were and at all times since there have been in Michigan, railroads owned and operated by others than corporations, and railroad properties owned by unincorporated associations and partnerships and individuals which were of the same sort and engaged in the same business and put to the same uses as the railroad properties of corporations enumerated in said act for taxation thereunder; and that at the time of the passage of said act there were and at all times since there have been in Michigan, railroads and railroad properties of the same kind as the railroads and railroad properties of corporations enumerated for taxation under said act, but belonging to corporations other than railroad corporations, and not themselves subject to taxation under said act; and that there were at the time of the passage of

18 said act and ever since have been not only corporations but also unincorporated associations and partnerships engaged in the same kind of express business in the State of Michigan, and having and using in the same way in such express business the same kind of property; and that at the time of the passage of said act No. 173 there were and at all times since there have been in the State of Michigan not only corporations of the various sorts enumerated

in said act for taxation by said State board of assessors, but also unincorporated associations and partnerships and individuals engaged in the same sort of business and having and using in the same way in such business the same kind of property, as more fully appears by affidavits hereto attached, marked Exhibits C and D, which your orator prays may be taken as part of this bill.

(b.) Said act does not make a classification of property of business for purposes of taxation, founded upon real differences of property or business such as would warrant the classification, but arbitrarily and unreasonably separates the companies enumerated in the act from others engaged in essentially the same kind of business and having essentially the same kind of property, and said act makes a positive and direct discrimination between persons and property of the same kind in essentially the same kind of business, making a classification on the basis simply of a distinction in ownership; and as instances of such discrimination your orator shows (without intending thereby to limit its general charge of discrimination) that street railway companies having railways running in and between different places and carrying mail, express and freight, as well as passengers and commonly known as interurban railways, as well as tram railroad companies, railroad bridge companies, railroad tunnel companies and sleeping car companies, are not included in said act No. 173,

19 although at the time of the passage thereof companies and corporations of all such several sorts were doing business and had property in such business, and ever since have been doing business and had property in such business, in the State of Michigan, and although the business of said several companies and corporations not included in said act was at the time of the passage of said act and ever since has been of essentially the same character as that of the corporations included in said act; and although the property of the said several companies and corporations not included in said act was at the time of the passage of said act and ever since has been of essentially the same sort and put essentially to the same use as that of the property of the corporations included in said act. As to sleeping car companies, your orator particularly avers that there were in the State of Michigan at the time of the passage of said act No. 173, and there ever since have been sleeping cars owned and used by railroad corporations in the course of their railroad business, and consequently within the terms of said act No. 173, while during all said time there have been sleeping cars owned and used in the State of Michigan by corporations and associations other than railroad corporations in the same way and for the same purposes and in the same sort of business as the sleeping cars owned and used by railroad corporations, as aforesaid; though the property of such sleeping car companies other than railroad corporations is not within the terms of said act.

(c.) Said act purports to authorize and would result in the application of a tax rate to the assessed value of the property of the several companies enumerated in said act different from and higher than

the tax rate applied to the property of others in the State of Michigan of the same actual and assessed value, situated in the same place and subject to the same political jurisdictions and existing under the same circumstances.

20 (d.) Under the provisions of said act the rate of tax to be imposed upon the property of the companies therein enumerated depends upon the collective result of proceedings of county, township, school and municipal boards, bodies and officials having only local jurisdiction and having no authority or power over property outside of their respective territorial jurisdictions, and within the limits of whose several jurisdictions your orator neither has nor since 1901 has had any property whatsoever; and such county, township, school and municipal boards, bodies and officials neither have nor could have any legislative or administrative power or authority over the property of your orator or others outside of their respective territorial jurisdictions; and such local boards, bodies and officials do not represent your orator or the property belonging to it situated wholly beyond their jurisdictions, and are chosen by and act solely for the persons and property within their local jurisdiction; and your orator and others outside of their jurisdiction have no right to appear or be heard before such local boards, bodies or officials, and your orator and others beyond their respective jurisdictions have no relief from their action at law or in equity.

(e.) No opportunity is given to your orator or others, and they have no right, to appear or be heard before any of the several county, township, school or municipal boards, bodies or officials within whose territorial jurisdiction your orator and such others have no property, upon or concerning any action of such board, bodies or officials upon which depends the average rate of tax applicable under the terms of said act to the property of your orator and such others. Said act makes the amount of tax to be imposed upon the property of your orator and such others to depend upon the action of said county, township, school and municipal boards, bodies

21 and officials, and in such action no account is taken, or can be taken, of the rate of taxation, or the amount of taxation which is or which ought to be imposed upon the property of your orator and such others because of the needs of the State, or the public interests, in respect to the purpose to which, under the terms of said act No. 173, the moneys raised by such taxation are to be devoted.

(f.) No opportunity is given under the terms of said act to your orator or others for any hearing upon the question of the rate of taxation, or the elements required by said act to enter into the average rate therein called for.

(g.) Said law purports to authorize the imposition of taxes upon the property of your orator and such others without the exercise of any legislative judgment upon the rate of taxation to be imposed or upon the need of the State in any year of the amount of money to

be paid as taxes under said law for the purpose to which such money is to be devoted under the terms of said law.

(h.) Under the general laws of Michigan existing at the time when said act No. 173 was passed and ever since existing, the personal property of all inhabitants of Michigan other than the companies enumerated in said act No. 173 includes the credits of such persons for purposes of taxation, only so far as they exceed the amounts owed by such persons respectively; whereas said act No. 173 requires taxation of the credits of the companies therein enumerated, without any deduction whatever; and your orator avers that in the reports made by it to said State board of assessors in the year 1902, pursuant to the terms of said act No. 173, it declared and returned to said State board of assessors, as the fact was, that it had credits in the amount of two million, one hundred and eighty-seven thousand,

22 five hundred and thirty-four and 57/100 dollars (\$2,187,534.57), and that it had debits, being debts owing by it, in the amount of three million, one hundred and sixty-one thousand, three hundred and six and 66/100 dollars (\$3,161,306.66); that these reports and returns of your orator were before said Freeman, Dust, Sayre, and McLaughlin at the time of, and constituted parts of the data in the hands of said Freeman, Dust, Sayre, and McLaughlin concerning said assessments put by them upon the property of your orator; that the existence of said credits and debits was in no way disputed by or before said State board of assessors, and such credits were assessed by said Freeman, Dust, Sayre, and McLaughlin as an undivided part of the total property of your orator; and that, in obedience to the terms of said act No. 173, no deduction from the value of said credits or of any of the property of your orator was made on account of debits in the aforesaid alleged assessments of such property.

(i.) Said act permits and requires taxation in the State of Michigan of property belonging to companies therein enumerated which is situated outside of the State of Michigan.

(j.) Said act purports to treat and tax as if it were in the State of Michigan a portion of the property of railroad companies situated outside of Michigan and not used as a part of the railroad or in connection with the operation of a railroad, to be determined by the relation which the number of miles of main track within the State of Michigan of the company owning such property bears to the entire mileage of the main track of such railroad company both within and without Michigan.

23 (k.) Your orator is advised and submits that said act No. 173 is invalid, because it contravenes the provisions of the 14th amendment to the Constitution of the United States, which forbids the State to deprive any person of life, liberty or property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws in this, viz: That the laws of the State provide for the equalization of the assessment of the property of other property owners who are not included within

the taxation imposed by said act No. 173, where such assessment affects the rate or amount of taxation to be imposed upon the property of such owners, to the end that none of such persons shall bear an unjust, unequal or unlawful rate or burden of taxation by reason of an improper, unjust, unequal or unlawful assessment of his property, or the property of others, while said act No. 173 contains no provision for and does not permit the equalization of the assessment of the property of your orator and said other companies included within said act and the assessment made upon the other property of the State, although the rate and amount of taxation to be imposed upon your orator and said other companies are determined by the assessment of said other properties of the State, and the assessment of the property of your orator and said other companies, and such rate and amount are affected by the improper, unjust, unequal or unlawful assessment of said other property of the State, and the property of your orator and said other companies, and by the inequality between the assessment of such other property and of the property of your orator and said other companies, and protection is thus afforded by the laws of the State to other property owners of the State against unlawful, unjust and unequal taxation, which is denied by said act No. 173 to your orator and said other companies.

5. Your orator is further advised and submits that said act
24 No. 173 of the public acts of 1901 is invalid because, contrary to the provisions of article XIV. of the amendments to the Constitution of the United States, it deprives your orator and the other companies enumerated in it of their property without due process of law, and it denies to your orator and such other companies the equal protection of the laws; and your orator is further advised and submits that said act No. 173 is likewise contrary to section VIII. of article 1 of the Constitution of the United States in that it is an unlawful attempt to regulate commerce among the several States, your orator and many of the other companies in Michigan to which said act purports to apply having at the time of the passage of said act and ever since owned and operated its railroad in Michigan as part of a continuous railroad in many States on which at all times commerce between such States has been conducted and your orator and such other companies owning railroads in Michigan having at all times had both real and personal property of large amount and value in other States than Michigan which was not a part of or used in connection with their respective railroads.

6. Your orator is further advised and submits that said act No. 173 is repugnant to the provisions of section 4 of article IV. of the Constitution of the United States, by which the United States guarantee to every State a republican form of government; for the reasons, among others, set forth in subdivision (d) of division 4 of this bill.

7. Your orator is further advised and submits that if sections 10 and 11 of article XIV. of the constitution of Michigan, as amended by joint resolution during the extra session of the legislature of said

State held in the year 1900 and by vote of the people ratifying such amendment at the general election held in November, 1900, be so construed as to authorize the enactment of said act No. 173, then

25 said sections of the constitution of Michigan are repugnant to the provisions of article XIV. of the amendments of the Constitution of the United States, forbidding any State to deprive any person of property without due process of law or to deny to any person within its jurisdiction the equal protection of the laws; and, without limiting the general allegations just made, your orator specifies as reasons why said act, if enforced, would deprive your orator and the other companies enumerated in said act of property without due process of law and would deny to your orator and such others the equal protection of the laws the same grounds as are enumerated in subdivisions (a), (b), (c), (d), (e) (f), (g), (h) and (k) in division 4 of this bill.

8. Your orator is further advised and submits that if sections 10 and 11 of article XIV. of the constitution of Michigan, as amended in 1900 aforesaid, be construed so as to authorize the enactment of said act No. 173, then said sections of the constitution of Michigan are repugnant to the provisions of section 4 of article IV. of the Constitution of the United States, whereby the United States guarantee to every State a republican form of government; for the reasons, among others, set forth in subdivision (d) of division 4 of this bill.

9. Your orator is advised and submits that if said sections 10 and 11 of article XIV. of the constitution of the State of Michigan are held valid, then said act No. 173 is in violation of such sections of the Michigan constitution for each of the reasons set forth in subdivisions (a) and (b) in division 4 of this bill.

10. Your orator is advised and submits that if said sections 10 and 11 of article XIV. of the constitution of the State of Michigan are valid, then said act No. 173 violates those sections, and it also violates the provisions of section 32 of article VI. of said Michigan constitution, in that the stated provisions of the Michigan constitution require that your orator should have a hearing upon the question of the rate of taxation to be imposed upon its property, and said act gives no right of hearing to your orator before said State board of assessors or elsewhere concerning the rate of taxation upon the property of your orator and such others or concerning the elements required by said act to enter into such rate.

11. Your orator is advised and submits that said act No. 173 of the laws of 1901 violates section 10 of article XIV. of the constitution of the State of Michigan, authorizing the legislature to provide for the assessment of the property of corporations at its true cash value by a board of assessors, in that said act provides for the assessment of the property of certain corporations named in the act to the exclusion of all other corporations in the State, of which there are many.

12. Your orator is advised and submits that said act. No. 173 vio-

lates section 11 of article XIV. of the Michigan constitution, which requires the legislature to provide a uniform rule of taxation except upon property paying specific taxes.

13. Your orator is advised and submits that said act No. 173 violates the provision of section 12 of article XIV. of the constitution of the State of Michigan, requiring all assessments thereafter authorized to be on property at its cash value, and violates the provision of section 11 of article XIV of said constitution, requiring the legislature to provide a uniform rule of taxation except upon property paying specific taxes, in this, to-wit: that under act No. 206 of the public acts of 1893 of said State, which is the general tax law of the State, personal property includes for the purpose of
27 taxation only the credits belonging to the inhabitants of Michigan over and above the amounts owed by them respectively, whereas said act No. 173 requires the companies therein named to be taxed upon their credits without any deduction.

14. Your orator is advised and submits that said act No. 173 violates section 14 of article XIV of the constitution of Michigan, which provides that every law which imposes, continues or revives a tax shall distinctly state the tax and the objects to which it is to be applied, and that it shall not be sufficient to refer to any other law to fix such tax or object.

If said act is authorized by the constitution of Michigan, then said constitution and said act contravene the provisions of the fourteenth amendment of the Constitution of the United States, in that said constitution of Michigan, and said act deny to your orator, and the companies to which said act applies the equal protection of the laws, for the reason that by said constitution of Michigan every law which imposes a tax upon the property in the State of all other corporations, companies, associations and persons is required to distinctly state such tax, while said act No. 173 does not distinctly state the tax which it imposes.

15. Your orator further shows that said Freeman, Dust, Sayre and McLaughlin, acting as such State board of assessors, construed said act No. 173 as authorizing the amount of all taxes levied in the State of Michigan for highway purposes during the year 1902 to be included in the dividend used in determining the average rate of tax required to be determined under said act, and did in their aforesaid attempted taxation of the property of your orator and others determine and use the average rate of tax applied by them to the property of your orator and others in accordance with their
28 aforesaid construction of the act; and your orator is advised and submits that if said act is susceptible of such construction it violates section 11 of article XIV of the constitution of Michigan in that said section of the constitution does not authorize highway taxes to be included in the dividend used for the determination of such average rate, and in that said section of the constitution does not authorize the amount of highway labor taxes to be included in such dividend.

16. Your orator is advised and submits that said act No. 173 violates said sections 10 and 11 of article XIV of the constitution of the State of Michigan, in that it requires said State board of assessors to include as an element in the determination of the average rate of taxes, at which the property of your orator and such others is to be taxed under the terms of said act, ad valorem taxes for other purposes than State, county, township, school and municipal purposes; and your orator shows and alleges that said Freeman, Dust, Sayre and McLaughlin in their attempted taxation of the property of your orator and others, as aforesaid, did include as an element in their determination of the average rate of taxes, which in their said attempted taxation of the property of your orator and others they applied to such property, ad valorem taxes for other than State, county, township, school and municipal purposes.

17. Your orator is further advised and submits that said act No. 173 is repugnant to the constitution of the State of Michigan in that it purports to authorize the imposition of taxes upon the property of your orator and others without the exercise of legislative judgment upon the rate of taxation to be imposed or upon the need of the State in any year of the amount of money to be paid as taxes under said law, for the purposes to which such money is to be devoted under the terms of said law.

20 18. Your orator further shows and alleges that it has paid to the treasurer of the State of Michigan all taxes accruing to said State and payable heretofore or hereafter in the year 1903, according to the terms and provisions of section 3 of article 3 of act No. 198 of the Laws of the State of Michigan of 1873, as since amended, being compiler's section 6277 of the Compiled Laws of Michigan of 1897; which taxes paid by your orator were computed in accordance with said act No. 198 upon the business of your orator and of the corporations hereinbefore mentioned for the year 1902, and amount to the following sums of money:

Michigan Central R. R. Co.....	\$296,969.74 ;
Battle Creek & Sturgis Ry. Co.....	795.35 ;
Bay City & Battle Creek Ry. Co.....	386.98 ;
Buchanan & St. Jos. River R. R. Co.....	0.00 ;
Canada Southern Bridge Co.....	71.76 ;
Detroit & Bay City R. R. Co.....	33,013.23 ;
Detroit, Delray & Dearborn R. R. Co.....	.59 ;
Grand River Valley R. R. Co.....	13,408.65 ;
Jackson, Lansing & Saginaw R. R. Co.....	58,308.35 ;
Kalamazoo & So. Haven R. R. Co.....	2,467.72 ;
Michigan Air Line R. R. Co.....	9,640.16 ;
Michigan, Midland & Canada R. R. Co.....	187.59 ;
Toledo, Can. Sou. & Detroit Ry. Co.....	66,201.62 ;

and your orator further shows and alleges that it has no means of calculating or knowing what amount of tax it ought in equity and good conscience to pay to the State of Michigan in the year 1903

otherwise than according to the terms of said act No. 198, but your orator is ready and willing and offers to pay to the State of Michigan at once upon their ascertainment in proper manner any and all taxes that it ought to pay, if they exceed what it has already paid, as aforesaid.

30 19. Your orator shows that said defendant claims and asserts that there is due from your orator on account of the alleged taxes mentioned in division 2 of this bill, the following sums of money :

Michigan Central R. R. Co.....	\$158,245.74 ;
Battle Creek & Sturgis Ry. Co.....	4,005.10 ;
Bay City & Battle Creek Ry. Co.....	2,096.01 ;
Buchanan & St. Jos. River R. R. Co.....	165.53 ;
Canada Southern Bridge Co.....	4,894.23 ;
Detroit & Bay City R. R. Co.....	24,923.28 ;
Detroit, Delray & Dearborn R. R. Co.....	827.07 ;
Grand River Valley R. R. Co.....	9,765.95 ;
Jackson, Lansing & Saginaw R. R. Co.....	16,181.46 ;
Kalamazoo & So. Haven R. R. Co.....	2,912.10 ;
Michigan Air Line R. R. Co.....	21,397.26 ;
Michigan, Midland & Canada R. R. Co.....	1,467.74 ;
Toledo, Can. Sou. & Detroit Ry. Co.....	16,564.83 ;

in addition to the sum of money heretofore paid by your orator, as aforesaid, and demands of your orator that it forthwith pay such additional amount of taxes ; which demand your orator is advised and submits is grossly excessive, extortionate, unjust and illegal, and is in violation of the rights secured to your orator under the Constitution of the United States and the constitution and laws of the State of Michigan.

20. Your orator further shows and alleges that the matter in dispute in this suit exceeds the sum of two thousand dollars, exclusive of interest and costs ; and that your orator has no remedy in the premises at common law, and can obtain relief only from a court of equity ; and that said defendant, unless restrained by this court, will proceed to enforce his said demand and said alleged tax against the property of your orator by distress and by seizure and sales of such property.

31 Wherefore your orator prays :

(a.) That the defendant may be required to answer this bill of complaint, but not under oath ; his answer under oath being hereby expressly waived ;

(b.) That a restraining order be issued forthwith, and a temporary injunction be granted *pendente lite* and that a permanent injunction be awarded upon final decree, restraining the defendant and his successor and successors in office and his and their clerks, agents and assistants from proceeding in any manner under color of the authority assumed to be given him or them by act No. 173 of the public acts of Michigan of 1901, and from collecting or attempting to

collect from your orator any part of the sum of money asserted by defendant, as alleged in this bill, to be due from your orator to the State of Michigan, or any part of the alleged tax mentioned in this bill, until the further order of this court;

(c.) That the property of your orator be adjudged by this court to be free from and unaffected by the alleged lien of said pretended taxes;

(d.) That process in proper form may issue from this honorable court requiring said defendant to appear and answer this complaint, and to stand to and abide by any decree that may be rendered herein;

(e.) That your orator, and all others who properly become parties to this suit, may have such other or further relief in the premises as to this court may seem just.

32 And your orator will ever pray.

THE MICHIGAN CENTRAL RAILROAD
COMPANY,

By O. E. BUTTERFIELD,

Solicitor for Complainant.

HENRY RUSSEL,
ASHLEY POND,
Of Counsel.

STATE OF MICHIGAN, }
County of Wayne, } ss:

Henry B. Ledyard, being duly sworn, deposes and says that he is the president of The Michigan Central Railroad Company, the complainant in the foregoing bill of complaint; that he has read said bill of complaint, and knows the contents thereof, and that the same is true of his own knowledge, except as to matters therein stated to be upon information and belief, and as to those matters he believes it to be true.

HENRY B. LEDYARD.

Subscribed and sworn to before me this eighth day of June, 1903.

OWEN RIPPEY,
Notary Public.

33

EXHIBIT A.

The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
 vs.
 PERRY F. POWERS, Defendant. }

STATE OF MICHIGAN, }
 County of Washtenaw, } ss :

Amariah F. Freeman, of the village of Manchester, county of Washtenaw, State aforesaid, being duly sworn, deposes and says that he is a member of the board of State tax commissioners of the State of Michigan, and also *ex officio* a member of the State board of assessors of said State, and that he has been such member of said boards ever since the same were organized.

Deponent further says that the property of said State other than that subject to assessment by the State board of assessors upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes for the year 1902 was not assessed at its true cash value.

Deponent further says that the total true cash value of said property in the year 1902 was \$1,715,000,000, according to the information and knowledge of deponent, and that the assessed valuation thereof was \$1,418,251,858, or 82.7 per cent. of the true cash value thereof.

Deponent further says that the knowledge of the facts herein affirmed was acquired by investigations made by himself and other members of said board of State tax commissioners and by an examination of the records and files in the office of said board of State tax commissioners.

Deponent further says that the said board of State tax commissioners has abstracts of the official records of conveyances of real estate in all the counties of said State from July, 1898, to July, 1899, showing the names of the parties to each conveyance, description of the property and the consideration named in the conveyance; that competent agents of said board verified the considerations mentioned in the conveyances as aforesaid in a large number of instances and made investigation of the value of the property in most of the assessment districts of the State; and that in addition to the information so received said board considered reports received from various assessing officers of the State, and other information.

Deponent further says that the report of said board of investigation above referred to appears in print in the report of the State board of equalization for the year 1901, and a similar course of investiga-

tion has been carried on by said board continuously up to the present time.

Deponent further says that he has been present at the examination of a large number of assessing officers of said State when said assessing officers have been interrogated as to their method of arriving at the assessed valuation of the property in their respective districts, and that at least five hundred of said officers have stated that they had uniformly and intentionally assessed property in their respective districts at a certain percentage of its true cash value.

35 Deponent further says that such percentages vary in different assessing districts, ranging from fifty to ninety per cent.

Deponent further says that the fact that property of said State other than that subject to assessment by the State board of assessors upon which advalorem taxes were assessed for State, county, township, school and municipal purposes for the year 1903 was assessed at 82.7 per cent. of its true cash value, as heretofore stated, is due to the fact that the assessing officers of the State generally have uniformly and intentionally assessed such property in their respective districts at a sum less than what they believed to be its true cash value.

And further deponent saith not.

AMARIAH F. FREEMAN.

Subscribed and sworn to before me this 25th day of May, 1903.

F. M. FREEMAN,
Notary Public.

36

EXHIBIT "D."

The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs. }
PERRY F. POWERS, Defendant.

STATE OF MICHIGAN, } ss :
County of Marquette, }

Jacob Dolf, being duly sworn, deposes and says that he resides at the city of Marquette, in said county; that the Fuller & Friant Lumber Company own and operate a standard gauge railroad running from Thompson, in the county of Schoolcraft, in a generally northerly direction for a distance of from 22 to 24 miles, which railroad crosses the Minneapolis, St. Paul & Sault Ste. Marie railroad at a point called Delta junction; that the said Fuller & Friant Lumber Company holds itself out as a common carrier upon its said railroad, and carries freight in car-load lots for the public, for

compensation, upon a regular tariff; that the business of the said lumber company as common carrier is at the present time confined to forest products in car-load lots, and that such car-load lots have been frequently and regularly carried for parties having no connection in any way with the said Fuller & Friant Company, and having no ownership in the said railroad, at a regularly established tariff; that deponent obtained the information upon which

37 this affidavit is based from one Norris, the superintendent of the said railroad, and from numerous shippers; that said Fuller & Friant Company were common carriers over the said railroad during the year 1902.

Deponent further says that he was informed by the superintendent of the said Fuller & Friant Lumber Company that they were not prepared to cater for miscellaneous freight, as they had no box cars or cabooses to load it on, but that they expected to carry miscellaneous freight in the near future.

JACOB DOLF.

Subscribed and sworn to before me, this 29th day of April, 1903.

[SEAL.]

JOHN H. O'MEARA,
Notary Public, Marquette County, Michigan.

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EXHIBIT "C."

UNITED STATES OF AMERICA, {
State of Michigan. }

In the Circuit Court of the United States for the Western District of Michigan. In Equity.

MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs.
PERRY F. POWERS, Defendant. }

Henry W. Magoon, being duly sworn, deposes and says that he is the private secretary and manager for Louis Sands hereinafter named; has personal knowledge of the facts herein stated and knows the same to be true.

Deponent further says that Mr. Louis Sands is the sole owner of the railroad sometimes called the Louis Sands Company railroad, that the said railroad is situated in the county of Kalkaska and State of Michigan, and passes through a portion of townships numbers 25 north 7 west, 26 north 6 west, 27 north 5 and 6 west, and 28 north 5 and 6 west; that including its branches it is about twenty-five miles in length, and is operated by said Louis Sands as a private logging road; that the same has three locomotives, no passengers or freight equipments other than logging cars; that the same is now

being operated by the said Louis Sands; and that the owner of said road is not a corporation.

HENRY W. MAGOON.

Subscribed and sworn to before me, this 23rd day of April, A. D. 1903.

[SEAL.]

ALFRED C. CHRISTENSON,
Notary Public.

39

EXHIBIT "B."

Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs.
PERRY F. POWERS, Defendant. }

STATE OF MICHIGAN, } ss:
County of Wayne, }

Ira T. Sayre, of the village of Flushing, county of Genesee, State aforesaid, being duly sworn, deposes and says that he is a member of the board of State tax commissioners of the State of Michigan, and also *ex-officio* a member of the State board of assessors of said State, and that he has been such member of said boards since May, 1901.

Deponent further says that the property of said State other than that subject to assessment by the State board of assessors upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes for the year 1902 was not, in his judgment, assessed at its true cash value.

Deponent further says that the total true cash value of said property in the year 1902 was not less than \$1,715,000,000, according to the information and knowledge of deponent, and that the assessed valuation thereof was \$1,418,251,858, or about 82.7 per cent. of the true cash value thereof.

40 Deponent further says that the knowledge of the facts herein affirmed was acquired by investigations made by himself and other members of said board of State tax commissioners and by an examination of the records and files in the office of said board of State tax commissioners.

Deponent further says that the said board of State tax commissioners has abstracts of the official records of conveyances of real estate in all the counties of said State from July, 1898, to July, 1899, showing the names of the parties to each conveyance, description of the property and the consideration named in the conveyance; that competent agents of said board verified the considerations mentioned in the conveyances as aforesaid in a large number of in-

stances and made investigation of the value of the property in most of the assessment districts of the State; and that in addition to the information so received, said board considered reports received from various assessing officers of the State, and other information.

Deponent further says that the report of said board of the investigation above referred to appears in print in the report of the State board of equalization for the year 1901, and a similar course of investigation has been carried on by said board continuously up to the present time.

Deponent further says that he has been present at the examination of a large number of assessing officers of said State, when said assessing officers have been interrogated as to their method of arriving at the assessed valuation of the property in their respective districts, and that at least four-fifths of said officers have stated that they had uniformly and intentionally assessed property in their respective districts at a certain percentage of its true cash value.

Deponent further says that such percentages vary in different assessing districts, ranging from fifty to ninety per cent.

41 Deponent further says that the fact that property of said State other than that subject to assessment by the State board of assessors upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes for the year 1903 was assessed in his judgment at about 82.7 per cent. of its true cash value, as hereinbefore stated, is due to the fact that the assessing officers of the State generally have uniformly and intentionally assessed such property in their respective districts at a sum less than what they believed to be its true cash value.

And further deponent saith not.

IRA T. SAYRE.

Subscribed and sworn to before me this 10th day of June, 1903.

A. F. FREEMAN,

Notary Public in and for Washtenaw County, Michigan.

42

EXHIBIT "E."

State of Michigan, Supreme Court.

BOARD OF EDUCATION OF THE CITY OF DETROIT,)
Relator,)

vs.

No. 19876.

THE STATE BOARD OF ASSESSORS, Respondent. }

The answer of the above named respondent to the petition of the above named relator, in response to the order to show cause, respectively shows:

1. That it admits the facts stated in paragraphs one and two of said petition, as alleged in said petition.

2. That it denies that the average rate required by section 11 of article XIV. of the constitution and act 173 of the public acts of 1901, to be procured by this respondent, should have been ascertained and determined by dividing the sum total of the appropriations for State, county, township, school and municipal purposes levied upon the property subject to an ad valorem assessment for the current year, which total sum is alleged by relator to be the sum of \$23,493,733.55 (should be \$23,476,733.55) by the sum total of the assessments made and reported by the various assessing officers of the State upon all property subject to an ad valorem assessment aside from the property specified in and subject to taxation under the provisions of said act 173, and which said sum as made by the various assessing officers and reported by them to 43 the State board of assessors, relator alleges to be the sum of \$1,418,237,058 (should be \$1,418,251,858), which division, it is alleged by relator, would have produced, as the average rate, the following, \$16.55207 (should be \$16.5533) as the rate for each one thousand dollar valuation on the property specified in said act, and denies that said figure obtained by said division is the true rate as contemplated by law, or is obtained by the method contemplated by the constitution.

3. That it admits, as alleged in paragraph four of said petition, that it, as said State board of assessors, in order to secure the average rate required by the constitution and statute did divide the sum of \$23,476,733.55, which sum represents the total amount of the appropriations for State, county, township, school and municipal purposes to be raised by taxation on all property subject to an ad valorem assessment, aside from the property specified in said act, by the sum of \$1,715,000,000, which said sum was found by said board to be the cash value of the assessable property of said State and would result by adding to the sum total of the assessments made and reported to this respondent, as said State board of assessors, by the various assessing officers of the State the sum of \$296,748,142, which said last named sum when added to the said total assessed valuation of the property of the State, other than that taxable under said act 173, assessed for State, county, township, school and municipal purposes, would bring those properties to cash value as required in the constitution to be assessed and that the said division produced, as the average rate per one thousand dollars valuation upon all property subject to taxation under the provisions of said act 173, the sum of \$13.68905, which determination was a judicial determination on the part of this board. That it denies that the 44 method of obtaining said average rate was contrary to the constitution and the provisions of said act 173 and without any authority or warrant of law, and denies that it obtained the said sum of \$1,715,000,000 so used as a divisor by adding an arbitrary sum to the sum total of assessments made and reported to it by the various assessing officers of the State.

4. That it admits, as alleged in paragraph five of said petition,

that the true rate contemplated by law for the taxation of property subject to taxation under said act 173, is the average rate to which all property in the State of Michigan upon which an ad valorem assessment is made is subject, but denies that the said average rate can only be ascertained and determined by dividing the sum total of the appropriation for the current year for State, county, township, school and municipal purposes to be raised by taxation upon all property aside from the property specified in said act 173, subject to an ad valorem assessment by the sum total of the assessments made by the various assessing officers of the State upon all property in the State of Michigan subject to an ad valorem assessment, aside from the property specified in said act.

5. That it admits, as alleged in paragraph six of said petition, that a demand was made upon this respondent to correct the rate as ascertained and determined by it, and that said board has refused and still continues to refuse to make such correction, but shows that said demand for a correction of such rate was not duly made or made within the time limited by law for the fixing of such rate, but was made on the 18th day of February, A. D. 1903, subsequent to the completion of the assessment roll for the taxation of the properties of corporations subject to taxation by this respondent, as said State board of assessors, and subsequent to the extension of the taxes thereon, at the rate so determined.

45 6. That it admits the facts stated in paragraphs seven and eight of said petition to be substantially true as therein set forth.

7. That it admits that the amount of primary school moneys to be received by the said relator will be affected by the method used in obtaining said average rate, and that the method for which said relator in its petition contends, if used, would secure to it in the neighborhood of sixty thousand dollars more than it will receive under the method pursued by this respondent in ascertaining and determining said average rate.

8. This respondent further answering shows that it is required by the constitution of this State and the statute providing for the assessment and taxation of railroad companies and other corporations by a State board of assessors to value and assess the property of the several railroad and other corporations subject to its jurisdiction under the provisions of said constitution and statute at their true and actual cash value; that, for the purpose of ascertaining the true cash value of the property of said corporations for the purposes of assessment, it required and received from said corporations the reports provided for in said act 173, giving detailed information as to the property of said corporations, its nature, condition and value, and after careful examination and consideration of such reports and of such other information as was procurable bearing upon the true cash value of said property, assessed the same at its true and actual cash value in every instance; that it believes that the said assessments of the said property of said corporations subject to taxation

under the provisions of said act 173 represent the true and actual value of such property, so assessed, as nearly as it is possible
46 to estimate and obtain the same; and that, after completing said assessment, it attached thereto its certificate as required by statute in the following form:

"We do hereby certify that we have set down in the above assessment roll all the property of railroad companies, express companies, union station and depot companies, car loaning, stock car, refrigerator and fast freight line and other car companies liable to be taxed in this State, according to our best information, and that we have estimated the same at what we believe to be the true cash value thereof, and that we have assessed the taxes thereon at the average rate of taxes for State, county, township, school, municipal and other purposes, levied throughout the State, during the present year, as determined by us."

9. That by the statute the persons constituting this respondent, The State Board of Assessors, are *ex-officio* members of and constitute the board of State tax commissioners created by virtue of the provisions of the general tax law of this State, as amended by act 154 of the public acts of 1899; that as such board of State tax commissioners it has and exercises general supervision over the supervisors and other assessing officers of the State, and as such has become possessed of the facts and conditions of the assessable property of the State and the value thereof, and that the said board of State tax commissioners is required to and does, personally and through its members, agents and field men, make examinations of local conditions relating to taxation and local assessments, and with a view to ascertain whether the assessments of property subject to ad valorem taxes for State, county, township, school and municipal purposes throughout the State are made as required by law; that the examination of the assessments of the property of the State subject to ad valorem taxes made by the said board of State tax commissioners was complete and thorough, that the result of the examinations so made furnished the said

47 board of State tax commissioners with accurate and detailed information as to the nature of the assessments made throughout the State, and whether those assessments were at cash value; that the result of said information, so procured, indicated to the said board of State tax commissioners and to this respondent that the assessments of property subject to ad valorem assessment and taxation for the raising of taxes for State, county, township, school and municipal purposes throughout the State were not at cash value as required by the statutes and constitution; but that they were considerably below the value required to be placed thereon by the constitution and the statutes, and that the knowledge thus obtained has become the knowledge and information of the said State board of assessors.

10. That the constitution contemplates that both the property of railroad and other corporations subject to taxation by a State board

of assessors under the provisions of act 173 of the public acts of 1901, and the other property in the State subject to ad valorem taxes for State, county, township, school and municipal purposes shall be assessed and taxed at its true and actual cash value; that in providing that the property of corporations might be assessed by a State board of assessors and taxed at the average rate of taxation imposed upon other property subject to taxation for State, county, township, school and municipal purposes, it was intended and contemplated that such average rate should be the average rate levied upon the actual value of the property taxed, instead of upon the assessed value of such property where the actual true cash value of such property differed from such assessed value; that the property of the railroad and other corporations assessed by a State board of assessors should bear the same rate of taxation upon its actual
 48 and true cash value as was borne by the other property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes upon its actual and true cash value; and that the constitution contemplates equality in the burden of taxation borne by the property subject to assessment by a State board of assessors and the other property of the State, and that such equality could only be procured by reducing the property of the railroad companies and other corporations and the other properties of the State to the same basis of valuation, which, under the constitution, could only be the cash value of such property.

11. That, as this respondent believes and charges the truth to be, the undervaluation of the property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes throughout the State was not the result of accident, inadvertence, or mistakes in judgment, but that such undervaluation of such property was, in a large number of the municipalities of the State, intentional and general, and that this practice of undervaluation has been in vogue in this State for a great number of years; and that if the court desires to examine the data upon which the foregoing statements are based it will be furnished.

12. That, knowing that the properties of the several railroads and other corporations required to be assessed by this respondent as the State board of assessors had been assessed at cash value and as nearly in accordance with the constitution as possible, it appeared to be manifestly unfair and productive of inequality to use as a basis for determining the average rate for the taxation of the property of corporations subject to the jurisdiction of the State board of assessors a rate secured by the use of valuations of property
 49 which had been assessed at much less than actual cash value and contrary to constitutional requirements; and it therefore procured the opinion of the attorney general upon its right to reduce the assessed valuation of the property subject to ad valorem taxes for State, county, township, school and municipal purposes to the equivalent of cash value for the purpose of using the same as a divisor in obtaining such average rate; that the attorney general

advised that the actual cash value of the property of the State upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes should be taken as a divisor in determining such average rate, in case it was found that the assessed valuation of such property was not the actual and true cash valuation, and that the State board of assessors had the authority to determine the actual and true cash value of the property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes as incident to its authority to ascertain and determine such average rate.

That this respondent, in pursuance of its duty in the premises, determined that the property throughout the State, other than property subject to assessment under the provisions of act 173, upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes, was assessed at much below its true cash value, to wit, the sum of \$296,762,942.00, and for the purpose of arriving at the actual and true cash value of the property of the State other than that subject to assessment under the provisions of act 173, subject to ad valorem taxation, said board considered reports received from the various assessing officers of the State, the total valuation of said properties, as assessed and other information obtained by said board bearing upon the cash value of the property so assessable, and found the sum to be said sum of \$1,715,000,000, and

50 that the said sum so obtained and so determined to be the true and actual cash value of the property of the State assessed for State, county, township, school and municipal purposes, was used in obtaining the average rate in the method set forth in paragraph two of said petition.

Wherefore, this respondent submits that said method pursued in obtaining said average rate was in accordance with law, and that the mandamus prayed for should be denied.

WM. T. DUST,
IRA T. SAYRE,
JAMES C. McLAUGHLIN,
A. F. FREEMAN,

Members State Board of Assessors.

A. F. FREEMAN AND
J. C. McLAUGHLIN,

Attorneys for Respondent, The
State Board of Assessors.

Business address: City hall, Lansing, Michigan.

STATE OF MICHIGAN, }
County of Ingham, } ss:

Wm. T. Dust, Ira T. Sayre, James C. McLaughlin, and A. F. Freeman, members of the State board of assessors, being first duly sworn, each for himself, deposes and says, that he has read the foregoing

answer and knows the contents thereof and that the same is true of his own knowledge except as to matters therein stated to be on information and belief, and as to those matters, he believes it to be true.

WM. T. DUST.
IRA T. SAYRE.
JAMES C. McLAUGHLIN.
A. F. FREEMAN.

51 Subscribed and sworn to before me this 14th day of April, 1903.

GEORGE H. HARCOURT,
Notary Public, Cheboygan County, Acting in
Ingham County, Michigan.

STATE OF MICHIGAN, ss:

In the Supreme Court, Clerk's Office.

I, Charles C. Hopkins, clerk of the supreme court of the State of Michigan, do hereby certify that the annexed and foregoing is a true and correct copy of the answer now on file in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said supreme court at Lansing, this 11th day of June, A. D., 1903.

[Seal of the Supreme Court.]

CHAS. C. HOPKINS, Clerk.

The bill was filed June 16th 1903.

52 United States Circuit Court for the Western District of Michigan, Southern Division. In Equity.

MICHIGAN CENTRAL RAILROAD COMPANY, Complainant,

vs.

PERRY F. POWERS, Auditor General of the State of Michigan, }
Defendant. }

The Answer of said Defendant, Perry F. Powers, Auditor General of the State of Michigan, to the Bill of Complaint of the Above Named Complainant.

For answer to said bill, said defendant says:

1. That he admits, as set forth in paragraph 1 of said bill of complaint (p. a) that said complainant is and was at the times mentioned in said bill a corporation organized and existing under the

laws of the State of Michigan for the organization of railroad companies; that complainant owns and operates, and since 1901 has owned and operated a railroad within the State of Michigan; that its property in the State of Michigan includes a large amount
53 of lands and real estate, and that this defendant is a resident of the city of Cadillac, in the county of Wexford and State of Michigan, in said district, and a citizen of the State of Michigan and of the western district thereof, and that he was heretofore duly elected auditor general of the State of Michigan, has duly qualified as such officer and is now in possession of said office and discharging the duties thereof; but says that while his personal residence is in said city of Cadillac in said western district of Michigan, his official residence is required by the constitution of the State of Michigan to be, and is, in the city of Lansing, in the county of Ingham, in said State and in the eastern district thereof, and that all of his official acts and doings are by law required to be done and are done in the said city of Lansing.

2. That he admits, as stated in paragraph 2 of said bill (p. 1), and says, that on or about February 1, 1903, acting as the State board of assessors of Michigan, under and by virtue of the authority of an act of the legislature of said State, known as act 173 of the public acts of 1901, approved May 27, 1901, Amariah F. Freeman, William T. Dust, Ira T. Sayre and James C. McLaughlin delivered to this defendant a tax roll upon which they had placed and described the property of said complainant and others, and had made an assessment of the property of said complainant and of such others, and had levied what the said Freeman, Dust, Sayre and McLaughlin and this defendant claimed to be, and intended and proposed to enforce against said complainant and such others as, a tax upon the property of said complainant and such others; that the assessment so placed upon the property of said complainant and the tax extended thereon were, in amounts, substantially as set forth in said bill of complaint, and that attached to the said tax roll and made a part thereof was the certificate, copy of which is set forth in said bill of complaint, (p. 3).

That he admits that until the decision of the supreme court
54 of Michigan, mentioned in said bill, this defendant claimed that said taxes so extended upon the said assessment roll, including the tax extended thereon against the property of said complainant, constituted a debt from the several companies against which they were extended, including said complainant, to the State of Michigan, and intended to proceed, and but for said decision of said supreme court and restraint by this court would have proceeded, to enforce said alleged tax against the property of said complainant and such others by the measures and proceedings provided for the collection of such taxes in said act 173 of 1901.

That he admits that the average rate of taxes mentioned in said certificate, dated January 29th, 1903, and attached to said *original* assessment roll, and therefore ascertained and determined by said

Freeman, Dust, Sayre and McLaughlin, was \$13.68905 per one thousand dollars of the value of the general properties of the State as determined by them; and that said alleged average rate was ascertained in the manner set forth in said paragraph 2 of said bill of complaint (p. 4), and that said Freeman, Dust, Sayre and McLaughlin construed said act 173 and the constitution of the State of Michigan, as authorizing them to act in the manner set forth in said bill of complaint (p. 4), and admits that the aggregate assessed valuation of the general property of the State as assessed by the several assessing officers of the several municipalities of the State was \$1,418,251,858; but denies that said aggregate assessed valuation was \$296,748,942 less than the actual and true cash value thereof; that said sum of \$1,715,000,000, as found by said Freeman, Dust, Sayre and McLaughlin, is, or represents, the actual true cash value of the general property of the State subject to ad valorem assessment for State, county, township, school and municipal purposes; and denies that said Freeman, Dust, Sayre and McLaughlin acted officially in determining that the assessed value of the properties of the State subject to ad valorem assessment for State, county, township, school and municipal purposes did not represent the true
55 and actual cash value of the same, and that said persons had any jurisdiction or power to make such determination, or that such determination is of any force or effect.

That he admits, as stated in paragraph 2 of said bill of complaint (p. 5), and says, that after the preparation of said assessment roll and the extending of the taxes thereon at the rate determined by said members of said State board of assessors and the delivery of said tax roll to this defendant, and after the first day of February, 1903, such proceedings were had in the supreme court of the State of Michigan in a certain cause wherein The Board of Education of the City of Detroit was petitioner, and The State Board of Assessors was respondent, that the constitution of the State of Michigan and said act 173 were construed and held by said supreme court to confer upon said State board of assessors no discretion whatever in the determination of the property value as a divisor in the calculation of the average rate of taxation to be applied under said act 173; that said State board of assessors, in their ascertainment of such average rate of taxation was limited to the ministerial function of dividing the aggregate of the taxes levied in the State for State, county, township, school and municipal purposes by the aggregate assessed valuation of the general property of the State, other than that assessed under act 173, assessed by the various local assessing officers in said State; that such actual assessed valuation for the year 1902 of the general property of the State assessed otherwise than under said act number 173 was \$1,418,251,858, which, if used as a divisor of the ad valorem taxes found by said Freeman, Dust, Sayre and McLaughlin to be levied upon said property would give as the average rate of taxation \$16.55329 per one thousand dollars of assessed valuation, and that said supreme court

of Michigan thereupon ordered a writ of mandamus to issue commanding said State board of assessors to reconvene and reascertain the average rate in accordance with such decision of said court.

56 That he admits, as stated in said paragraph 2 of said bill of complaint (pp. 5 and 6), that after such decision of said supreme court of Michigan, said Freeman, Dust, Sayre and McLaughlin reconvened as said State board of assessors, and proceeded, in accordance with said decision and the order of said court, to reascertain and redetermine the average rate of taxation, and did so ascertain and determine it at said amount of \$16.55329 on each thousand dollars of assessed valuation, and that said Freeman, Dust, Sayre and McLaughlin thereupon (in accordance with the statute) adopted, signed and promulgated a statement of the method of redetermining and reascertaining such average rate in substantially the form set forth in said bill of complaint, (pp. 6 and 7).

That he admits, as stated in said bill of complaint (p. 7), that said Freeman, Dust, Sayre and McLaughlin, acting as the State board of assessors of Michigan, under and by virtue of the authority of said act 173 of the public acts of 1901, thereupon, and on or about May 6th, 1903, prepared a new tax roll upon which they placed and described the property of said complainant and others; *but denies that said persons, acting as said board, made an alleged assessment of the property of said complainant and such others; and says that in accordance with said act 173 and the said order of the supreme court the said persons, acting as such board, made a duplicate of the original assessment roll, theretofore prepared by them as set forth in said bill of complaint, and admits that upon said duplicate assessment roll, so prepared, said board levied what it and this defendant claims to be and what is, if said act of the legislature of the State of Michigan and said proceedings thereunder are valid, a tax upon the property of said complainant and such others; that the assessment of the property of said complainant appearing upon said duplicate assessment and tax roll is the same as was made and stated in the said first or original tax roll prepared by the said State board of assessors, and that the tax so placed upon the property of said complainant in such new tax roll is substantially*

57 as set forth in said bill of complaint; that by the proceedings aforesaid the taxes, sought to be and, levied upon the property of said complainant and such other companies are increased in substantially the amounts set forth in said bill of complaint and that attached to said tax roll and made a part thereof by the said persons acting as said State board of assessors, is the aforesaid statement, set forth in said bill of complaint (pp. 6 and 7), of the method of reascertaining and redetermining said average rate of taxation, and also a certificate signed by said Dust, McLaughlin and Freeman, setting forth the compliance with said order of the supreme court and said act 173, the preparation of a duplicate assessment roll and the extension of the taxes thereon at such reascertained

and redetermined rate, which said certificate is substantially as set forth in said bill of complaint, (pp. 8 and 9.)

That he admits that, as stated in said bill (p. 9), the assessment made against the property of said complainant by said Freeman, Dust, Sayre and McLaughlin in said original assessment roll and transferred to said duplicate assessment roll prepared by them was determined and found by them to be the true cash value of the property of said complainant and the full and actual value thereof; but denies, that said assessment of said property of said complainant was at the true and actual cash value thereof, or that the assessments of the property of said complainant and such others appearing on said assessment roll represent the actual and true cash value thereof as required by the constitution and statute, and denies that the assessments made by the assessing officers of the State other than said State board of assessors upon the general property of the State assessed otherwise than under said act 173, in 1902 were, and for many years before, regularly had been, assessed at much less than the true cash and actual value of such property, and not over eighty per cent. of such true cash and actual value; and while he admits that said Freeman, Dust, Sayre and Mc-

58 Laughlin, in their original determination of said average rate found and determined such assessments upon the general property of the State assessed by others than themselves to have been, in 1902, much less than the true cash and actual value of the property, he denies any authority of such persons to make such determination, or any force in such determination; he denies that it was in 1902 and for many years theretofore had been the custom and general practice and purpose and intent of the assessing officers of the State generally to make their assessments for the purposes of taxation at less than the true cash and actual value of the assessed property; he denies that while such under-assessment made by the local assessors in the various counties, towns, cities, school districts and other assessing districts of the State, varied in different districts, being, in many instances, as low as fifty per cent. of the true cash and actual value, it was the habit and purpose of the assessors in 1902 and prior years to maintain, as to the property of different owners in the same assessment district, the same general ratio of assessed to full value; and he denies that such ratio seldom exceeded eighty per cent., and denies that if such general under-assessment of the property of the State assessed otherwise than under act 173, existed, it was not in 1902 and in prior years or at any other time the result of accident; and denies that the assessments in the year 1902 by the assessing officers generally and in a great number of the different and various assessment districts in the State of the property of the State assessed otherwise than under said act 173, were intentionally made by them at less than the true cash value of the property assessed; that the assessments made did not express the real judgment of the assessing officers making the assessment, in respect to the true cash value of the property

assessed by them; that thereby a greater rate and burden of taxation was put by said State board of assessors upon the property of said complainant by their said action of May 6th, 1903, than would have been put thereon if such assessment had been made by said assessing officers as required by law, to the extent of twenty per cent. or any other extent of the taxes levied upon the property of said complainant by said State board of assessors, and avers that the affidavits of said Freeman and Sayre, attached to said bill of complaint, which state such under-valuations, are mere conclusions, do not represent the facts, are on their face contradictory and untrue, and denies that, to such extent of such tax, the collection thereof would deprive said complainant of its property without due process of law or deny to it the equal protection of the laws in contravention of the provisions of the 14th amendment of the Constitution of the United States.

That he admits that, as stated in said bill of complaint (pp. 10 and 11) the State board of equalization at its meeting in the year 1901, being its most recent session for purposes of equalization, determined the aggregate value of the general property of the State not assessed under act 173, upon which ad valorem taxes were assessed, to be the sum of \$1,578,100,000, whereas the assessed valuation of said property in the same year was the sum of \$1,335,109,918, or only 84.6 per cent. of its value as determined by the State board of equalization; but says that such ascertainment and determination was solely and exclusively for the purposes of an adjustment of the burdens of the State tax among the several counties of the State, and that the said sum does not necessarily represent the total true cash value of the property of the State subject to ad valorem assessment for State, county, township, school and municipal purposes.

That he denies, as alleged in said bill (p. 11) that all the proceedings of said Freeman, Dust, Sayre and McLaughlin in reascertaining the average rate of taxation as aforesaid and in making their second alleged duplicate tax roll and in all others of their transactions subsequent to the said decision of the supreme court of Michigan were without sufficient notice to the said complainant or to others whose property purports to be assessed in said tax roll and were without any knowledge on the part of said complainant or such others as to the time or place of such proceedings; but admits that neither said complainant nor any of such others at any time appeared or was present or represented in any way at any of said proceedings; that at the time of the hearing of said complainant and the others mentioned in said tax rolls in the course of the proceedings which resulted in the first alleged tax roll said Freeman, Dust, Sayre and McLaughlin had already made their first determination of the average rate of taxation and had already entered such average rate of taxation upon their records, and that said Freeman, Dust, Sayre, and *McLaughlin had in their aforesaid first determination of the average rate of taxation fixed it with a view to*

making an equalization between the assessments made by them under such act number 173 upon the property of said complainant and such others and the general property of the State assessed otherwise than under said act 173, and therefore declined to enter upon any question or consider any evidence concerning an equalization of their assessments with the other assessments of the State by an appropriate reduction of the assessed valuations to be made by them, and that he denies that the denial, by the supreme court, in its said decision, of the existence of any authority in said Freeman, Dust, Sayre and McLaughlin to increase to what they considered was its true cash value the valuation of the property generally in the State, imposed upon the property of said complainant and said other companies a tax about one-fourth greater than is imposed upon property generally in the State of equal value.

That he admits, as stated in said bill of complaint (p. 12), and says, that since May 6th, 1903, said state board of assessors, under and by virtue of the authority of said act 173, has delivered to this defendant their last aforesaid tax roll upon which the property of said complainant and others is placed and described and an assessment of the property of said complainant and others is made
61 and a tax upon such property is levied in the amount as to said complainant's property substantially as set forth in said bill; that this defendant claims that the taxes so extended upon said tax roll, including the tax extended thereon against the property of said complainant, constitutes a debt from the several companies against which such tax is extended to the State of Michigan, and constitutes a lien upon the property of said complainant and such others, real, personal and mixed, within the State of Michigan, having precedence of all demands, judgments, assignments by warranty deed or otherwise, or decrees against said complainant or such others; that said lien and debt may be by said defendant enforced by seizure and sale of said property or such portions thereof as may be necessary to satisfy the same at any time hereafter; that said lien of said tax constitutes a cloud upon the title of said complainant and of such others against whom said taxes have been extended as aforesaid, to their respective properties, including their said lands and real estate, and that this defendant, unless such taxes are paid or unless restrained by this or some other court, will proceed to enforce said tax and said lien against the property of said complainant and of such others by instituting the proper proceeding in accordance with the statute for the recovery of such tax, or by distress and by seizure and sale of such property; but denies, that the same will cause said complainant and such others irreparable injury; and he denies that there is no provision of law in the State of Michigan or otherwise by virtue of which said complainant or either of such corporations may bring an action at law or institute proceedings against the State of Michigan to recover back moneys which it or either of said corporations may pay or which may be collected from it or either of them for or on account of said taxes; but says that

under the statutes and decisions of the State of Michigan the said complainant would be entitled to pay such taxes, so levied and assessed against it, under protest and to bring a suit to recover
62 the same, and that said complainant has other legal remedies in the premises without resorting to a court of equity.

That he denies that, as stated in paragraph 2 of said bill, (p. 13) said assessments and taxes made in said second tax roll against the property of said complainant and others mentioned in said tax roll are invalid for the reasons that they were made without any opportunity to said complainant or others to appear or to be heard concerning them and without any actual appearance or hearing of said complainant or such others, and were in contravention not only of the constitution of Michigan but also of the provisions of the fourteenth amendment to the Constitution of the United States, requiring that no person shall be deprived of his property without due process of law, and that no State shall deny to any person the equal protection of the laws, and further that the said proceedings of the assessing and taxing officers of Michigan and said pretended assessments and taxes against the property of said complainant and such others founded thereon result in an attempted taxation of the property of said complainant at about one-fourth more in proportion to its value than other property generally is taxed in the State, and thereby contravene not only the constitution of the State of Michigan but also those provisions of the fourteenth amendment to the Constitution of the United States mentioned in paragraph 2 of said bill, and that to the extent at least that such pretended taxes are thus greater than the taxes upon property generally of equal value, said proceedings are null and void.

2a. This defendant further answering to the foregoing portion of said bill shows that under the constitution and statutes of the State of Michigan all assessments of property are required to be at cash value, and that cash value is defined by statute to mean "the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, meaning the price which
63 could be obtained therefor at private and not at forced or auction sale;" that under the provisions of the constitution and statutes it is the duty of every assessing officer in the several municipalities and assessment districts of the State to assess all property both real and personal subject to its jurisdiction at its true and actual cash value, and that the neglect or refusal so to do subjects the officer offending to conviction of misdemeanor attended with heavy penalty; that by statute boards of review have been provided for the several municipalities, which are given authority to review assessments made by the several assessing officers and to cause the assessments appearing upon the assessment rolls reviewed by them to be raised or lowered so as to be at their true cash value, and that the statute has likewise provided for a review and supervision of the assessment rolls of the several assessing officers in the several assessment districts in the several municipalities of the State

by a board of State tax commissioners, (the members of which are *ex officio* members of and constitute the State board of assessors) which is given and exercises general supervision over the supervisors and other assessing officers of the State and is authorized to take such measures as will secure the enforcement of the provisions of the tax laws of the State to the end that all property of the State liable to assessment for taxation shall be placed upon the assessment rolls and assessed at its actual cash value; that under its supervisory authority over the several assessment rolls of the several municipalities of the State the said board of State tax commissioners is authorized and empowered to examine such assessment rolls and take such proceedings as it may deem necessary to make the same conform to constitutional and statutory requirements and to represent the true and actual cash value of the assessments appearing thereon; that this defendant is informed and believes that the assessments made by the several local assessing officers throughout the State, as reviewed by the several boards of review and after being acted upon by the said board of State tax commissioners, are

64 in a large majority of, if not in all, instances, in accordance with statutory and constitutional requirements and represent the true and actual cash value of the property assessed, and that the action of the several assessors in the several municipalities of the State in making assessments, and the said boards of review and board of State tax commissioners in perfecting the same, is in the absence of fraud attended with the conclusive presumption that they are legal and valid, that the assessments are at true and actual cash value, and such assessments cannot be collaterally attacked.

26. That the same presumption of correctness and regularity which accompanies the action and assessments of the State board of assessors accompanies the action and assessment of the local assessors and boards of review throughout the State and the action of the board of State tax commissioners, and that as this defendant is informed and verily believes, the assessments of property throughout the State subject to *ad valorem* assessment for State, county, township, school and municipal purposes are uniformly nearer to cash value and to the constitutional and statutory requirements in this regard than is the property of the railroad and other corporations as assessed by the State board of assessors under the provisions of said act 173, and that the assessments by the State board of assessors of the property of railroad and other corporations subject to its jurisdiction are not at, and do not represent, the true cash value of the property of those companies, but the property of such companies has been assessed and appears on said original and duplicate assessment rolls at much below its true and actual cash value.

2c. That if any undervaluation of the property of the State subject to *ad valorem* assessment for State, county, township, school and municipal purposes exists, or existed in 1902, such undervaluation is the sporadic result of accident or mistakes of judgment and is not wilful or intentional, the result premeditated, collusive or fraudu-

lent action on the part of the officers making the assessment, nor the result of agreement or concurrent action on the part of such
65 assessing officers; that no customary, uniform, habitual or systematic practice of undervaluation exists in this State, and that if any undervaluation of such property exists, or existed in 1902, it was not the result of uniform, habitual or systematic practice of undervaluation, nor was it designed for the purpose of affecting or augmenting the tax to be imposed upon the complainant or upon the other corporations or classes of corporations subject to taxation under act 173.

2d. That if said act 173 of the public acts of 1901 is valid, it required the said State board of assessors in assessing the property of said complainant, in ascertaining and determining the average rate of taxation and in delivering said tax roll to this defendant, to proceed as it did as officers and representatives of the State of Michigan and imposes upon this defendant the duty of proceeding in accordance with its requirements to enforce the collection of such tax as an officer and a representative of the State, and this court possesses no jurisdiction to restrain such action, being inhibited by article 11 of the amendments to the Constitution of the United States, such proceeding being in substance and effect a suit against the State.

3. This defendant admits that said complainant possesses property only in the counties enumerated in paragraph 3 of said bill of complaint and that there are, and since 1901 have been, counties and numerous other political subdivisions in the State of Michigan in which said complainant neither has, nor since 1901 has had, any property whatsoever.

4. That he denies that said act 173 of the public acts of 1901, under which said Freeman, Dust, Sayre and McLaughlin proceeded and this defendant proposes to proceed as aforesaid, is repugnant to the provisions of article fourteen of the amendments to the Constitution of the United States in that its enforcement would deprive said complainant and such others against whom the said proceedings have been had and are intended, of their property with-
66 out due process of law and would deny said complainant and such others the equal protection of the laws in the several respects set forth in paragraph 4 of said bill of complaint.

(a.) That he admits said act applies to corporations doing business as railroad companies, union station and depot companies, express companies, car loaning companies, refrigerator and fast freight line companies, and does not apply to joint stock companies, or associations, partnerships or natural persons unless such joint stock companies, associations, partnerships or natural persons and other corporations are of such character as to be regarded as included within the term "corporations or companies" as used in said act 173 and sections 10 and 11 of article fourteen of the constitution of the State of Michigan as amended, but denies that at the time of the passage of said act 173 there were and at all times since there have been in Michigan railroads owned and operated by other than cor-

porations and railroad properties owned by unincorporated associations and partnerships and individuals which were of the same sort and engaged in the same business and put to the same uses as the railroad properties of the corporations enumerated in said act for taxation thereunder; and denies, that at the time of the passage of said act there were and at all times since there have been in Michigan railroads and railroad properties of the same kind as the railroad and railroad properties of corporations enumerated for taxation under said act but belonging to corporations other than railroad corporations and not themselves subject to taxation under said act; that there were at the time of the passage of said act and ever since have been, not only corporations but also unincorporated associations and partnerships engaged in the same kind of express business in the State of Michigan and having and using in the same way in such express business the same kind of property; and denies that at the time of the passage of said act 173 there were and at all times since have been in the State of Michigan not only cor-
 67 porations of the various sorts enumerated in said act for taxation by said State board of assessors but also unincorporated associations and partnerships and individuals engaged in the same sort of business and having and using in the same way in such business the same kind of property, and denies that Exhibits C and D of said bill of complaint furnish instances of such similar property in such similar use.

(b.) That he denies, that said act does not make a classification of property or business for purposes of taxation founded upon real differences of property or business such as would warrant the classification, but arbitrarily and unreasonably separates the companies enumerated in the act from others engaged in essentially the same kind of business and having essentially the same kind of property; that said act makes a positive and direct discrimination between persons and property of the same kind in essentially the same kind of business, making a classification on the basis, simply, of a distinction in ownership, and denies, that instances of such discrimination are street railway companies having railways running in and between different places and carrying mail, express and freight as well as passengers, and commonly known as interurban railways, as well as tram railroad companies, railroad bridge companies, railroad tunnel companies and sleeping car companies, and that all of said companies are not included in said act 173 although he admits that at the time of the passage thereof companies and corporations of all such several sorts were doing business and had property in such business and ever since have been doing business and had property in such business in the State of Michigan;

And denies that the business of said several companies and corporations not included in said act was at the time of the passage of said act, and has been essentially of the same character as that of the corporations included in said act; and that property of the said several companies and corporations not included in said act was at

the time of the passage of said act and ever since has been of essentially the same sort and put to the same use as that of the property of corporations included in said act. That as to sleeping car companies, this defendant denies that there were in the State of Michigan at the time of the passage of said act 173 and ever since have been sleeping cars owned and used by railroad corporations in the course of their railroad business and within the terms of said act 173, and denies that during all of said time there have been sleeping cars owned and used in the State of Michigan by corporations and associations other than railroad corporations in the same way and for the same purposes and in the same sort of business as sleeping cars owned and used by railroad corporations, and that the property of said sleeping car companies other than railroad corporations, is not within the terms of said act, but shows that if any such sleeping cars were so used and owned by said railroad corporations within the State of Michigan they were used as incidental to, in the course, and as a part, of their railroad business, while the sleeping cars used and operated in this State other than by railroad corporations are used and owned by corporations or institutions solely in the carrying on of a sleeping car business over lines of road owned by railroad corporations under contracts with such corporations.

(c.) That he denies, that said act purports to authorize and would result in the application of a tax rate to the assessed value of the property of the several companies enumerated in said act, different from and higher than the tax rate applied to the property of others in the State of Michigan of the same actual and assessed value, situated in the same place, subject to the same political jurisdiction and existing under the same circumstances.

That the fourteenth amendment to the Federal Constitution permits and authorizes the classification of persons, corporations and their property for the purposes of taxation, with the sole limitation that such classification shall operate uniformly upon persons, corporations and property similarly situated, and the constitution of the State of Michigan permits and authorizes the classification of such corporations as shall be selected by the legislature to be taxed by a State board of assessors, *by themselves* and the imposition of one rule of taxation as to such corporations and another rule as to the property of persons and corporations not so taxed. That the classification made by act 173 of railroad and other corporations and associations therein enumerated and made subject to its provisions, and the application to such corporations of a method of assessment and taxation different from that to which other property throughout the State is subject, constitutes a proper and legitimate classification of such corporations and their property for the purposes of taxation and such classification is based upon sufficient differences in the character of such corporations and the property owned and business done by them from the corporations, persons, property and business subject to taxation locally throughout

the State, as to warrant the imposition of a different system and rate of taxation, as applied to such corporations, so required to be assessed and taxed by a State board of assessors, from such other persons and corporations and their property.

That from the foundation of the State a different rule of taxation has been applied to railroad companies than that applied to other corporations and property; such corporations being taxed specifically, the amount of tax being measured by gross earnings, or by the imposition of a specific rate upon the capital stock, and such different rule of taxation has been recognized and sustained by the State courts.

That said act 173 purports to and does tax only the property of the corporations subject to its provisions which is engaged in the carrying on of the particular business of the corporation or association, and that, in the case of complainant, the act purports, and intends to, (and the taxes imposed upon complainant's property are levied upon that basis,) tax only the property of the corporation engaged in carrying on its railroad business or held by it as a necessary incident of its business, and all real property owned and

70 which can be conveyed by such corporation under the laws of this State, which is not actually occupied in the exercise of its franchises or in use in the proper operation of its road or corporate business is liable to assessment and taxation in the same manner, for the same purposes and to the same extent as other real estate in the several townships and municipalities in which the same is situate.

That the said complainant is engaged in its railroad business as a public common carrier of passengers and freight to the full extent permitted by the laws of the State of Michigan and possesses the right of eminent domain and numerous other rights and privileges which are not possessed by individuals and corporations generally, and not possessed by street railway and other corporations which it cites as examples of similar corporations, and that there is not, to the best information and belief of this defendant, any corporation except those organized as railroad corporations, copartnership, association or individual engaged in carrying on such a general railroad business within the State of Michigan as a public carrier of passengers and freight and owning or operating lines of railroad in the same manner as is the complainant or subject to be classified with the complainant and other similar companies and corporations for the purposes of taxation.

That under the constitution and the statute, while a different system of assessment and taxation is provided for the corporations and associations subject to assessment and taxation by a State board of assessors, and their property, such system places such corporations upon the basis of equality in the amount of taxes required to be borne by such corporations with the property of other persons and corporations; all property being required to be assessed at its cash value and the amount of the tax to be spread upon corporations

subject to assessment and taxation by a State board of assessors being at the same rate as the average rate imposed upon other property upon which ad valorem taxes are levied for State, county, township, school and municipal purposes.

71 That if any inequality, as between the class of property and corporations required to be assessed by a State board of assessors, and the property and corporations and persons required to be locally assessed exists, either in rate of taxation, in the character of the assessment, or in the amount of taxes levied, or any discrimination has resulted in the taxation of either class, such inequality and discrimination or difference in rate has not arisen from the provisions of said act 173 or the constitutional provisions, but, is the result of and exists by reason of the action of the officers charged with the administration of such law and the duty of assessing the property of the State, including that of the corporations subject to act 173, and the determination of the rate of taxation thereon.

(d.) That he denies, that under the provisions of said act the rate of taxation to be imposed upon the property of the companies therein enumerated depends upon the collective result of proceedings of county, township, school, and municipal boards, bodies and officials having only local jurisdiction and having no authority or power over property outside of their respective territorial jurisdictions and within the limits of whose several jurisdictions said complainant neither has nor since 1901 has had any property whatsoever; that such county, township, school and municipal boards, bodies and officials neither have nor could have any legislative or administrative authority or power over the property of said complainant or others outside their respective territorial jurisdictions, and admits that such local boards, bodies and officials do not represent said complainant or the property belonging to it situated wholly beyond their jurisdiction and are chosen by and act solely for the persons and property within their local jurisdiction, but denies that said complainant and others outside their jurisdiction have no right to appear or be heard before such local boards, bodies or officials, and that said complainant and others beyond their respective jurisdictions have no relief from their action at law or in equity.

72 But says that the rate of taxation required by said act 173 of the public acts of 1901 to be imposed upon the property of the said complainant is fixed and determined by constitutional and legislative action and is not made to, and does not, depend upon the result of proceedings of county, township, school and other municipal boards and bodies.

That in and by said act the legislature of the State of Michigan has determined that the rate of taxation to be imposed upon the property of said complainant and the other corporations subject to taxation, under the provisions of said act by a State board of assessors, shall be the same rate that is imposed upon other property throughout the State subject to an ad valorem assessment for the raising of taxes for State, county, township, school and municipal purposes, and

that by the constitution and the statute the rate of taxation to be imposed upon the property of corporations subject to the provisions of said act 173 is measured by, and equal to, the average rate assessed throughout the State on property subject to ad valorem assessment for the raising of taxes for State, county, township, school and municipal purposes.

That no county, township, school or municipal board or body, other than the legislature and the State board of assessors, is given or has any authority over the rate of taxation to be imposed upon said complainant and the corporations subject to taxation by said act 173, and such rate of taxation is not and cannot be directly affected by any act or proceeding of any county, township, school or other municipal board or body appointed for that purpose, although the rate of such taxation is influenced by the action of county, township, school and other municipal boards and bodies, taken and had within the legitimate and legal duties of such boards, in imposing taxes upon the property subject to their several jurisdictions.

73 That he does not admit that said complainant cannot be heard and has no relief at law or in equity against the action, whether legal or illegal, of the several county, township, school and other municipal boards and bodies within the State of Michigan charged with the duty of making and levying assessments and imposing taxes upon the property of this State, other than that subject to taxation by a State board of assessors for State, county, township, school and municipal purposes and says that said complainant and the other corporations whose property is subject to assessment and taxation by a State board of assessors at an average rate dependent in amount upon the taxes levied throughout the State upon property by local boards and assessing officers, would have full authority to appear and be heard before the several reviewing and other local boards and officers and the board of State tax commissioners, and would have equal authority with individuals and other corporations whose interests would be likewise affected, to redress illegal action of such boards and officers in the court.

(c.) That he denies that no opportunity is given to said complainant or others, and that they have no right, to appear or to be heard before any of the several county, township, school or municipal boards, bodies or officers within whose territorial jurisdiction said complainant and such others have any property, upon or concerning any action of such board, bodies or officials upon which depends the average rate of taxation applicable under the terms of said act to the property of said complainant and others, but says that he believes that the said complainant, and any other corporations subject to taxation under the provisions of said act 173 at the average rate therein provided for, would be entitled to appear before any of the several county, township, school or municipal boards, bodies or officials in the several municipalities, of the State, whether such corporations had property subject to the jurisdiction of such boards or officers or not, and be heard respecting any and all matters which

might or could affect such average rate, and that should it be held that no such opportunity for hearing is given, then and in such case, as this defendant is advised and believes, the said complainant and other corporations similarly situated, have no constitutional right to a hearing before such boards or officers.

That he denies that as such the act makes the amount of tax to be imposed upon the property of said complainant and such others to depend upon the action of said county, township, school and municipal boards, bodies and officials and in such action no account is taken or can be taken of the rate of taxation, or of the amount of taxation which is or which ought to be imposed upon the property of said complainant and such others because of the needs of the State or the public interests, in respect to the purpose to which, under the terms of said act 173, the moneys raised by such taxation are to be devoted. For further answer to this paragraph defendant respectfully refers to paragraph 4-g, pages 24, 25.

(f.) That he denies, that no opportunity is given under the terms of said act to said complainant or others for any hearing upon the question of the rate of taxation, or the elements required by said act to enter into the average rate therein called for.

But says that the said rate of taxation is fixed by the legislature in the exercise of its political functions to be the average rate of taxation that is imposed upon property locally assessed for said county, township, school and municipal purposes; that the ministerial function is conferred upon the State board of assessors to reduce this rate to certainty by dividing the aggregate taxes assessed for State, county, township, school and municipal purposes by the aggregate assessed valuation of the property upon which such taxes are assessed, and that as the duty imposed upon this board is ministerial, and the result could not be affected by notice and opportunity for hearing, the said complainants are deprived of no right by not being accorded such hearing; that in case the said State board of assessors sought to act illegally or beyond its jurisdiction

to include in the basis of reaching such average rate any element not provided for by law, the said complainant and such others would have full authority to contest the proceedings and method by which such rate was ascertained and determined, in the courts and in case such rate was not ascertained and determined in accordance with law and their constitutional rights, to compel its reascertainment and redetermination in accordance with law.

(g.) That he denies, that said law purports to authorize the imposition of taxes upon the property of said complainant and such others without the exercise of any legislative judgment upon the rate of taxation to be imposed or upon the need of the State, in any year, of the amount of money to be paid as taxes under said law, for the purpose to which such money is to be devoted under the terms of said law, but says:

That said act 173 does not dispense with legislative judgment as

to the needs of any years, but that the same constitutes a legislative, and the constitutional provision under which the said act was enacted constitutes a constitutional determination that the amount of taxes which will be realized from the operation and enforcement of said act 173 will, together with other sources of revenue provided and to be provided, be sufficient to the needs of the institutions of government which are supported by the funds derived from said act.

That it has been the uniform practice of the State for upwards of sixty years to impose taxes by the imposition of a rate per cent. upon property and business, and that taxes imposed in such manner, have, in numerous instances, been sustained by the State courts. That instances of taxation of this character are found in the specific taxes which have, since the foundation of the State, been imposed upon business and privileges, and the taxes which have been imposed for the benefit of certain funds at a specified rate, to-wit, the one mill tax, for the benefit of the primary school fund, the 76 one-quarter mill tax for the benefit of the university, the one-sixth mill tax, for the war loan sinking fund, and the military tax of a certain number of cents per capita, to be spread on property.

That under and by virtue of the constitution, the rate of tax which the legislature is required to impose upon the property of corporations subject to assessment by a State board of assessors, is required to be the average rate levied upon other property upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes; which is a constitutional determination that such rate levied upon the property subject thereto would be suited to the needs of any year in which the same was imposed.

(h.) That he admits, that under the general laws of Michigan existing at the time when said act 173 was passed and ever since existing, the personal property of all inhabitants of Michigan, other than the companies enumerated in said act 173, includes the credits of such persons for purposes of taxation with a deduction for debts owed when deduction therefor is claimed but does not admit that the law providing for the deduction of said debts from credits is constitutional, and denies that said act No. 173 requires taxation of the credits of the companies therein enumerated without any deduction whatever, and denies, that in the reports made by said complainant to the said State board of assessors in the year 1902 pursuant to the terms of said act 173 of the public acts of 1901, it declared and returned to said State board of assessors, as the fact was, that it had credits owing to it and debts owing by it in the amounts set forth in said bill of complaint (par. 4-h, pp. 19 and 20); that these reports and returns of said complainant were before said Freeman, Dust, Sayre and McLaughlin at the time of, and constituted part of the data in the hands of said Freeman, Dust, Sayre and McLaughlin concerning said assess-

ments put by them upon the property of said complainant; 77 that the existence of said credits and debts was in no way disputed by or before said State board of assessors; that such credits were assessed by said Freeman, Dust, Sayre and McLaughlin as an undivided part of the total property of said complainant, and that in obedience to the terms of said act 173 no deduction from the value of said credits or of any of the property of said complainant was made on account of debts in the aforesaid alleged assessments of such property, but says:

That if said act 173 requires the taxation of the credits of the companies therein enumerated without any deduction whatever, and at the same time the general laws of the State of Michigan existing at the time and since existing, permit the deduction of debts from credits in reaching the amount of property belonging to persons and corporations for the purposes of taxation, such application of different rules for the taxation of the property of corporations subject to taxation by act 173 from that applied to the other corporations and the individuals owning property throughout the State, constitutes a proper and legitimate classification, based upon real, inherent and material differences in the nature of the corporations and the property owned by them.

That in assessing the property of the complainant and the several corporations subject to assessment by a State board of assessors under the provisions of said act 173, the said State board of assessors did not include in such assessment the credits belonging to the said complainant and such other companies, and said complainant and such other companies, although given full opportunity to be heard before the said State board of assessors, acting as a board of review upon the assessment made upon its property, did not make application to have its or their debts deducted from its or their credits and made no objection to the said assessment of its said property on the ground that debts were not deducted from credits.

That if the said complainant possesses any credits they constitute a part of its railroad business and its railroad property, 78 acquired and used in the carrying on of its railroad business and are, as he believes in fact, the uncollected proceeds of such business, and as such, are properly classified with other railroad property, in making classifications of property for the purposes of taxation and the application of a different rule thereto than is applied to the credits of individuals or corporations differently situated does not constitute a discrimination.

That in case it should be determined that the legislature, in the enactment of said act 173, should have accorded to the railroad and other property of corporations therein required to be assessed thereunder, the same privilege of having its debts deducted from its credits as accorded to the property subject to ad valorem assessment for State, county, township, school and municipal purposes, then and in such case the provisions of the general tax law of the State of Michigan purporting to permit and authorize the deduction from

credits is invalid, as violating the provision of the State constitution that "the legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law," (§ 11, art. 14), as such statutory provisions permits and authorizes the deduction of debts from credits, but does not permit the deduction of debts from either personal property or from real estate.

(i.) He denies, that said act permits and requires taxation in the State of Michigan of property belonging to the companies therein enumerated which is situated outside of the State of Michigan, and that

(j.) Said act purports to treat and tax, as if it were in the State of Michigan, a portion of the property of railroad companies situated outside of Michigan, and not used as a part of a railroad or in connection with the operation of a railroad to be determined by the relation which the number of miles of main track within the

79 State of Michigan of the company owning such property bears to the entire mileage of the main track of such railroad company both within and without Michigan.

That said act does not purport to tax, or permit or require the taxation of any property which is situate outside of the State of Michigan, but permits the said State board of assessors, in determining the value of the property of railroad and union station and depot companies in this State, which own, lease, or operate lines partly within and partly without this State, to be guided by the relation which the number of miles of main track within the State of Michigan bears to the entire mileage of the main track of said companies both within and without this State; that the said act purports to tax only property within the State of Michigan, and the mileage without the State is used simply as a basis for determining the value of the Michigan property.

That while the said complainant was authorized to, and did, appear before the said State board of assessors in relation to the assessment of its property, it made no showing that the determination of the value of its property in this State upon a mileage basis was unfair or that the portion of its property in other States was of greater value or possessed of greater earning power than its property situate within this State, and that the said State board of assessors in its assessment of the property of said complainant included no property of said complainant situate beyond the jurisdiction of the State whether real or personal and whether engaged in its railroad business or otherwise, and all facts which enhanced or augmented the value of any portion of complainant's property situated beyond the limits of the State which would render the use of an absolute mileage basis unfair, were taken into consideration in making such assessment; and no facts existed which were not taken into consideration by said State board of assessors in making said assessment which would subject to taxation in this State a larger portion of complainant's property than is actually situated here.

80 (k.) That he denies, that said act 173 is invalid because it contravenes the provisions of the fourteenth amendment to the Constitution of the United States, which forbids the State to deprive any person of life, liberty or property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, in that, viz: The laws of the State provide for the equalization of the assessment of the property of other property owners who are not included within the taxation imposed by said act 173, where such assessment affects the rate or amount of taxation to be imposed upon the property of such owners, to the end that none of such persons shall bear an unjust, unequal, or unlawful rate or burden of taxation by reason of an improper, unjust, unequal or unlawful assessment of his property, or the property of others, while said act No. 173 contains no provision for and does not permit the equalization of the assessment of the property of said complainant and such other companies included within said act and the assessment made upon the other property of the State, although the rate and amount of taxation to be imposed upon said complainant and such other companies are determined by the assessment of said other properties of the State, and the assessment of the property of said complainant and said other companies, and such rate and amount would be affected by the improper, unjust, unequal or unlawful assessment of said other property of the State, and the property of said complainant and said other companies, and by the inequality in the assessment of such other property and of the property of said complainant and said other companies; and denies that protection is thus afforded by the laws of the State to other property owners of the State against unlawful, unjust and unequal taxation, which is denied by said act No. 173 to said complainant and such other companies, whereby said complainant and such others are discriminated against, but shows that by reason of the different character of said complainant and its said property, it is subject to be classified separately, from such other property, for the purpose of assessment and taxation, and being so subject to separate classification may be subjected to different rules of assessment and valuation.

81

5. That he denies, that said act 173 of the public acts of 1901 is invalid because, contrary to the provisions of article fourteen of the amendments to the Constitution of the United States, it deprives said complainant and the other companies enumerated in it of their property without due process of law and denies to said complainant and such other companies the equal protection of the laws; and denies, that said act 173 is likewise contrary to section 8 of article 1 of the Constitution of the United States, in that it is an unlawful attempt to regulate commerce among the several States; that he admits that said complainant and many of the other companies in Michigan to which said act purports to apply have at the time of the passage of said act and ever since owned and operated their railroads in Michigan as a part of a continuous railroad in many States,

upon which at all times commerce between such States has been conducted, but denies that said complainant and such other companies owning railroads in Michigan have at all times had both real and personal property of large amount and value in other States than Michigan which was not a part of or used in connection with their respective railroads.

6. That he denies, that said act 173 is repugnant to the provisions of section 4, article 4 of the Constitution of the United States, by which the United States guarantee to every State a republican form of government, for the reasons among others set forth in subdivision (d) of division 4 of said bill.

7. That he denies, that if sections 10 and 11 of article 4 of the constitution of Michigan, as amended by joint resolution during the extra session of the legislature of said State held in the year 1900, and by vote of the people ratifying such amendment at the general election held in November, 1900, be so construed as to authorize the enactment of said act No. 173, then said sections of the constitution of Michigan are repugnant to the provisions of article fourteen of the amendments to the Constitution of the United States forbidding any State to deprive any person of property without due process of law or to deny to any person within its jurisdiction the equal protection of the laws, for the grounds more specifically set forth by reference to subdivisions (a), (b), (c), (d), (e), (f), (g), (h) and (k) in division 4 of said bill.

8. That he denies, that if sections 10 and 11 of article fourteen of the constitution of Michigan, as amended in 1900 aforesaid, be construed so as to authorize the enactment of said act No. 173, then said sections of the constitution of Michigan are repugnant to the provisions of section 4 of article 4 of the Constitution of the United States, whereby the United States guarantees to every State a republican form of government, for the reasons, among others, set forth in subdivision (d) of division 4 of said bill.

9. That he denies, that if said sections 10 and 11 of article fourteen of the constitution of the State of Michigan are held valid, then said act No. 173 is in violation of such sections of the Michigan constitution, for each of the grounds specifically set forth in subdivisions (a) and (b) in division 4 of said bill.

10. That he denies, that if said sections 10 and 11 of article fourteen of the constitution of the State of Michigan are valid, then said act 173 violates those sections, and it also violates the provisions of section 32 of article 6 of said Michigan constitution in that the stated provisions of the Michigan constitution require that said complainant should have a hearing upon the question of the rate of taxation to be imposed upon its property and that said act gives no right of hearing to said complainant before said State board of assessors or elsewhere concerning the rate of taxation upon the property of said complainant and such others, or concerning the elements required by said act to enter into such rate, but shows that the said rate of taxation is fixed by the legislature to be the average rate imposed upon property locally assessed for State,

county, township, school and municipal purposes, and that the ministerial function of arriving at such rate is imposed upon the State board of assessors which has no discretion in regard thereto, said rate being the result of a mathematical computation; that a hearing upon the ascertainment and determination of said rate before the State board of assessors could not affect the result and therefore notice and opportunity for hearing are unnecessary; that if the said State board of assessors proceeds illegally in ascertaining said rate or in including the elements which it uses in reaching the same, the said complainant and such others are entitled to redress such illegal action in the courts, and the said act furnishes ample opportunity for inquiry by said complainant and such others into the method and manner of ascertaining and determining such average rate and makes full provision for the reascertainment and redetermination of such rate in accordance with law.

11. That he denies, that said act 173 of the laws of 1901 violates section 10 of article 14 of the constitution of the State of Michigan authorizing the legislature to provide for the assessment of the property of corporations at its true cash value by a board of assessors, in that said act provides for the assessment of the property of certain corporations named in said act to the exclusion of all other corporations in the State, of which there are many, and says that said section 10 of article 14 of said constitution properly construed in the light of the history and purposes of its enactment, permits and authorizes the legislature to provide for the assessment by a State board of assessors of the property of all corporations or of a limited number or class or classes of corporations, at its option, and that it was not contemplated or intended by said provision of the constitution that if the legislature should provide for the assessment of the property of certain corporations by a State board of
84 assessors it must at the same time provide for the assessment and taxation by the same method of the property of all corporations.

That prior to the adoption of said act No. 173 of the laws of 1901 railroad corporations were taxed specifically at a certain rate per cent. upon their gross earnings, which said rate was claimed to require the railroad corporations of the State to pay less than their share of the public burden, and the proposing and adoption of said amendments to sections 10, 11 and 13 of article XIV of the constitution, were the result of agitation extending over a long period of years, and for the purpose of placing the railroad and other corporations enumerated in said act 173 upon the same basis for the purposes of taxation as to the amount of the tax to be borne as the other property of the State; that, as is indicated by the proclamation of the executive convening the legislature in the special session which proposed these amendments to the constitution and the executive message to that legislature (October, 1900, as well as by the proclamations convening and messages to previous sessions of the State legislature), the real purpose of the amendment was to pro-

vide a system by which the railroad and other corporations, at the time of the adoption of the amendment, paying specific taxes, should be compelled to pay a tax levied upon the value of their property at the same rate as that borne by the other property of the State.

12. That he denies, that said act No. 173 violates section 11 of article XIV of the constitution of the State of Michigan and denies that said section of the constitution requires the legislature to provide an uniform rule of taxation, except upon property paying specific taxes, but says that said article requires the legislature to provide an uniform rule of taxation, except upon property paying specific taxes, except that the legislature shall provide an uniform rule of taxation for such property as shall be assessed by a State board of assessors, and that by the terms of said constitutional provision the legislature is authorized to provide one rule of taxation for property subject to assessment by a State board of assessors, which is required to be uniform upon the class upon which it operates, and is required to provide an uniform rule of taxation upon all other property, except property paying specific taxes.

13. That he denies, that said act 173 violates the provision of section 12 of article XIV of the constitution of the State of Michigan requiring all assessments thereafter authorized to be on property at its cash value, and violates the provision of section 11 of article XIV of said constitution requiring the legislature to provide an uniform rule of taxation, except upon property paying specific taxes, in that, to-wit, under act No. 206 of the public acts of 1893 of said State, which, as amended, is the general tax law of the State, personal property includes for the purpose of taxation only the credits belonging to the inhabitants of Michigan over and above the amounts owed by them respectively, and denies that said act 173 requires the companies therein named to be taxed upon their credits without any deduction. For greater particularity regarding this objection reference is hereby made to paragraph 4-h 19 *et seq.* of this answer.

14. That he denies, that said act 173 violates section 14 of article XIV of the constitution of Michigan, which provides that every law which imposes, continues or revives a tax shall distinctly state the tax and the objects to which it is to be applied, and that it shall not be sufficient to refer to any other law to fix such tax or object. And denies that if said act is authorized by the constitution of Michigan then said constitution and said act contravene the provisions of the fourteenth amendment of the Constitution of the United States in that said constitution of Michigan and said act deny to said complainant and the companies to which said act applies the equal protection of the laws for the reason that by said constitution of Michigan every law which imposes a tax upon the property in the State of all other corporations, companies, associations and persons is required to distinctly state such tax, while said act No. 173 does not distinctly state the tax which it imposes; but says that said act 173 and the constitutional provision providing for the assessment of the property of corporations by a State board of assess-

ors distinctly states the tax and the object to which it is to be applied ; that such tax or object is not fixed by reference to any other law in contravention of said article of said constitution, and that no unjust discrimination against, or denial of equal protection of the laws to, the corporations subject to taxation under act 173 exists thereby.

15. That he admits, that said Freeman, Dust, Sayre and McLaughlin, acting as such State board of assessors, construed said act 173 as authorizing the amount of all taxes levied in the State of Michigan for highway purposes during the year 1902 to be included in the dividend used in determining the average rate of taxation required to be determined under said act, and did in their aforesaid taxation of the property of said complainant and others determine and use the rate of tax applied by them to the property of said complainant and others in accordance with their aforesaid construction of said act ; but denies that if said act is susceptible of such construction it violates section 11 of article XIV of the constitution of Michigan in that said section of the constitution does not authorize highway taxes to be included in the dividend used for the determination of such average rate, and in that said section of the constitution does not authorize the amount of highway labor taxes to be included in such dividend ; but says that it does not appear from said bill of complaint of said complainant that the said State board of assessors included in the dividend used for the determination of the average rate any highway labor taxes.

16. That he denies, that said act 173 violates said section- 10 and 11 of article XIV of the constitution of the State of Michigan in that it requires said State board of assessors to include as an element in the determination of the average rate of taxes at which the
87 property of said complainant and such others is to be taxed under the terms of said act, ad valorem taxes for other purposes than State, county, township, school and municipal purposes, and that said Freeman, Dust, Sayre and McLaughlin in their taxation of the property of said complainant and others as aforesaid, did include as an element in their determination of the average rate of taxes which in their said taxation of the property of said complainant and others they applied to such property, ad valorem taxes for other than State, county, township, school and municipal purposes, but says that by a clerical error in enumerating the taxes to be taken into consideration in determining such average rate in said act 173, the word "other" was included (§ 13) and that such word should be eliminated from the act by construction ; that the said State board of assessors in determining such average rate took as a dividend only the aggregate taxes assessed and levied throughout the several municipalities of the State for State, county, township, school and municipal purposes and did not include in such dividend taxes for any other purpose, which fact is expressly stated in the certificate setting forth the method pursued by the said State board of assessors in reascertaining and redetermining its average

rate, which is set forth in full in said bill of complaint (page 6, paragraph a); and that as this defendant is informed and believes there are no ad valorem taxes which are assessed within this State other than those assessed for State, county, township, school and municipal purposes.

17. That he denies, that said act 173 is repugnant to the constitution of the State of Michigan in that it purports to authorize the imposition of taxes upon the property of said complainant and others without the exercise of legislative judgment upon the rate of taxation to be imposed or upon the needs of the State in any year of the amount of money to be paid as taxes under said law for the purposes to which such money is to be devoted under the terms of said law, but says that said tax so imposed upon said complainant is fixed and determined by the constitution itself, which contains no applicable requirement of the exercise of legislative judgment upon the rate of taxation to be imposed or upon the need of the State in any year as a prerequisite to the levying of a tax.

18. That he admits, for the purposes of this case, that said complainant has paid to the treasurer of the State of Michigan the taxes accruing to said State in the year 1903 in the amount set forth in paragraph 18 of said bill of complaint, computed in accordance with the terms of section 3 of article 3 of act 198 of the Session Laws of 1873, as amended, being section 6277 C. L. 1897, but says that said act 173 and the constitutional provision under which it was enacted, is legal and valid and that said complainant is liable to the full payment of the taxes assessed upon its property thereunder.

19. That he admits that this defendant claims and asserts that there is due from said complainant on account of the taxes mentioned in paragraph 2 of said bill the sums set forth in paragraph 19 thereof in addition to the sum of money heretofore paid by said complainant, and demands of said complainant that it forthwith pay such additional amount of taxes which he denies is grossly excessive, extortionate, unjust or illegal, or is in violation of the rights secured to said complainant under the Constitution of the United States and the constitution and laws of the State of Michigan.

20. That he admits, that the matter in dispute in this suit exceeds the sum of two thousand dollars, exclusive of interest and costs, but denies that said complainant has no remedy in the premises at common law and can obtain relief only through a court of equity, but admits that this defendant unless such tax is paid, or unless restrained by this or some other court, will proceed to enforce the said demand of the State of Michigan for said taxes against the property of said complainant by distress and by seizure and sale of said property.

89 (21.) This defendant further answering says that the said complainant, The Michigan Central Railroad Company, prior to December 30, 1901, existed under and by virtue of act No. 42 of the session laws of 1846, entitled "An act to authorize the sale of the Central railroad, and to incorporate the Michigan Central Rail-

road Company," and acts amendatory thereto, that said act, which constituted the special charter of the said complainant, contained a provision authorizing the State to alter, amend or repeal the same at any time after the expiration of thirty years from its passage, by a vote of two-thirds of each branch of the legislature, provided said company be compensated by the State for all damages sustained by reason of such alteration, amendment or repeal; that at a special session of the legislature of the State of Michigan, held in October, 1900, the said charter of the said complainant was repealed and provision was made for the institution by said complainant of a proceeding for the recovery of damages sustained by reason of and resulting from such repeal; that by said act repealing said special charter, it was provided that the right of said company to receive compensation from the State on account of its repeal should not be prejudiced by the voluntary surrender of its charter and its reorganization prior to the thirty-first day of December, 1901, under the provisions of section 6225, compiled laws of 1897 (No. 2, October special session, 1900).

By a certificate executed on the 4th day of December, 1901, and filed on the 30th day of December, 1901, in accordance with the provisions of said section 6225, C. L. 1897, said complainant voluntarily surrendered its special charter and incorporated under the general railroad law, that upon such incorporation, the said complainant became a new corporation, subject to the provisions of the said general railroad law as then existing and to the provisions of all other statutes of the State of Michigan, including said act 173 of the public acts of 1901, and sections 10, 11 and 13 of article XIV of the constitution of the State of Michigan as amended then in force; that the said organization of the said complainant under the general law was not coerced, compelled or required by the State as a prerequisite to the enjoyment of property rights but was voluntary upon the part of said complainant, and that by so voluntarily incorporating under the general railroad law, the said complainant accepted its provisions and the provisions of said act 173 and of sections 10 and 11 of article XIV of the constitution, as amended, as a part of the law of its incorporation, and became subject thereto, without authority to question their validity or to object to their constitutionality.

This defendant therefore submits that said act 173 of the public acts of 1901, and the acts and doings of the said State board of assessors and the proposed action of this defendant thereunder, are valid and constitutional and that the injunction prayed for in said bill of complaint be denied; and this defendant prays the same benefit from this his answer as if he had pleaded or demurred to said bill of complaint, and asks to be hence dismissed with his reasonable costs and charges in this behalf sustained.

PERRY F. POWERS.

CHAS. A. BLAIR,

Attorney General of Michigan,

Solicitor for Defendant.

ROGER IRVING WYKES, Of Counsel.

91 STATE OF MICHIGAN, }
County of Kent, } ss:

Perry F. Powers, auditor general of the State of Michigan, being first duly sworn, deposes, and says that he has read the foregoing answer by him subscribed and knows the contents thereof, and that the same is true, except as to matters therein alleged to be on information and belief, and that as to such matters he believes it to be true.

ALICE WATERS,
Notary Public, Kent County.

The answer was filed July 21, 1903.

92 Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs. }
PERRY F. POWERS, Auditor General of the State of Michigan, }
Defendant. }

And now comes the said defendant, (previous permission being granted by said court,) and amends his answer heretofore filed in said cause by inserting in paragraph 2-b thereof, at the end of and following said paragraph as it now stands, the following:

"And particularly that the said assessment by the said State board of assessors of the property of the said complainant, The Michigan Central Railroad Company, as appearing on the said assessment rolls, is not at, and does not represent, the true cash value of the property of said company, used in operating and carrying on its railroad business within this State, subject to assessment and taxation by the State board of assessors, as required by statute, but that the property of the said complainant has been assessed, and appears on the said original and duplicate assessment rolls, at an amount much below its true and actual cash value; that the said assessment and tax rolls, and the said assessment of the property of the said complainant appearing thereon, do not express or represent the true and honest judgment of the said State board of assessors, or the true and honest judgment of its several members; that he believes, and charges the truth to be, that the said under-assessment of the property of the said complainant by the said State board of assessors, is not the result of inadvertence, mistake or accident, but that such under-assessment and under-valuation was intentionally and willfully made."

PERRY F. POWERS.

CHAS. A. BLAIR,
Solicitor for Defendant.
LOYAL E. KNAPPEN,
CHAS. E. TOWNSEND,
ROGER IRVING WYKES,
Of Counsel.

STATE OF MICHIGAN, }
 County of Ingham, } ss:

On this 28th day of April, A. D. 1904, personally appeared before me Perry F. Powers, who, being first duly sworn, deposes and says that he is auditor general of the State of Michigan, that he has read the foregoing amendment to the answer by him subscribed and knows the contents thereof, that the same is true of his own knowledge except as to matters therein stated to be on information and belief and that as to those matters he believes it to be true.

GEO. W. FREEMAN,

Notary Public, Ingham County, Michigan.

My com. expires Feb'y 13, 1905.

The amendment was filed April 29th, 1904.

94 Stipulation Applying Testimony Taken in the Michigan Central Case to Other Cases.

A stipulation was entered into in each of the railway tax cases, applying the testimony taken in the case of *The Michigan Central Railroad Company vs. Perry F. Powers*, auditor general, to each of those cases, and permitting the taking of testimony in that cause relevant to such other cases. These stipulations were as follows:

"It is hereby stipulated between the parties to the above entitled cause, by their respective solicitors, that the testimony in said cause shall be taken orally before Charles L. Fitch, general examiner of said court, within the periods of time hereinafter limited, and otherwise in accordance with the rules and practice of said court.

The complainant shall take its evidence in support of its bill of complaint within three months from September 1st, 1903; the defendant shall take his evidence within three months thereafter; the complainant shall take its evidence in reply within one month thereafter, and the defendant shall then have ten days within which to put in any further evidence which may be admissible under the rules and practice of said court.

It is further stipulated that all the evidence taken in a certain cause involving the validity of act 173 of the public acts of 1901 now pending in said court, wherein *The Michigan Central Railroad Company* is complainant and said defendant is defendant, may be read in evidence in this cause, so far as the same may be relevant, material and competent to the issues in this cause.

It is further stipulated that either party, within the time limited for taking its proofs, may, with the consent of the solicitor of said Michigan Central Railroad Company, introduce proofs relevant, material and competent to the issues in this cause in said cause wherein said Michigan Central Railroad Company is complainant, although such proofs might not be competent, material or relevant in said last mentioned cause.

Said court may forthwith enter an order to the foregoing effect."

95 FRED M. TWISS, on the part of complainant, testified as follows:

Direct examination by Mr. BUTTERFIELD:

My residence is in Hillsdale, Hillsdale county, in this State. I have been farmer, school teacher, painter and attorney; also supervisor for two terms of the fourth ward of the city of Hillsdale. I am now chief clerk of the board of State tax commissioners, and have been since some time in March, 1901. I was employed as secretary by the board of State tax commissioners prior to that time, from the time of its organization. The act under which the commission was organized is sec. 154 of the laws of 1899. When it was first organized in July, 1899, the members were Milo D. Campbell of Coldwater, A. F. Freeman of Manchester, and Robert Oakman of Detroit. The first work of the commission was directed more particularly to the assessment of personal property in various parts of the State. The first work of the commission with reference to ascertainment of value of property upon which ad valorem taxes were assessed as compared with assessed value was directed particularly to assessment of personal property—the first reviews of magnitude being held in the city of Manistee and in the upper peninsula in the counties of Dickinson, Gogebic, Houghton, Marquette and Iron.

(Objected to by Mr. Blair as immaterial.)

The first work of this character was in the year 1900. The purpose of reviews in 1900 was to bring the assessed valuation of certain properties that were cited before the commission in those various communities to their true cash value, and the examination referred in each instance to specific properties.

(Objected to as immaterial.)

96 The matter published in the document entitled "Statistics of Real Estate Transfers in the State in the Year Ending June 30, 1899," was obtained and tabulated some time after the organization of the commission in 1899.

(Objected to as incompetent and immaterial.)

The commissioners formulated a plan by which they required the registers of deeds in each county to send them a record of all real estate transfers for the year ending, I think it was June 30, 1899; in that blank the names of the parties to the transfers were given, the date, the liber, the page and the consideration mentioned in the deed and the description of the property.

(Objected to by Mr. Blair as incompetent, hearsay and relating to remote period.)

Then I think the county treasurers were requested to set opposite each valuation the assessment of that particular parcel for the year 1899.

(Book referred to marked Exhibit A.)

That document contains the information obtained by the commission. We have in the office of the board of State tax commissioners, the original blanks, as they came from the county registers of deeds and treasurers.

After that information was obtained, a computation of the percentage of the assessed to the true value as shown by these reports was made under my direction by the different clerks in the office. Those percentages are shown in Exhibit A.

(Objected to as immaterial by Mr. Blair.)

The tax commission, or board of State tax commissioners, has been enlarged from three members to five.

The commission at the time it was enlarged consisted of Freeman, McLaughlin and Oakman. Mr. Dust was substituted for Mr. Oakman during the legislative session of 1901, and the new members added were Manville Jenks of Ishpeming and Ira T. Sayre of Flushing. Jenks is not now on the board.

Angus W. Kerr of Calumet was appointed in his place.

97 In 1901 the work of the commission which had to do with the ascertainment of the true cash value of the property in the State as compared to its assessed valuation was the same class of general work that had taken place in 1900 with reference to personal property, and the commission further endeavored to secure more definite information in regard to the assessment—or the comparison of actual to assessed value of real estate, by causing an examination of real estate in every county in the State to be made. The men engaged in that work were furnished with the original transfers that were taken by the registers of deeds referred to in Exhibit A. They were instructed so far as possible to verify the considerations mentioned in the deed; no verification had been made of those considerations previous to that time; that table had been made up upon the figures as they came to the office with this exception; that the reports from each county were gone through with and certain transactions were taken out of it where they appeared to be improbable upon their face. All considerations of one dollar were stricken out and I am not certain, but I think all transfers which showed upon their face that they were made through the sheriff of the probate court or through circuit court commissioners, but when the men were sent out for the examination of 1901 they were instructed to verify those considerations and also to make further examinations of properties in each assessment district where the transfers were very few in number.

I should say 15 or 20 men were engaged in that work, largely under my supervision. I was not secretary at that time. I was chief clerk, Mr. Gullifer succeeding me as secretary. My recollection is that we have a report from every county but three.

The commission tabulated the information obtained by this field

examination in 1901. Exhibit F attached to the bill of complaint contains the information by those examiners in 1901. This table

98 contains the number of acres in each assessment district, that is, of the townships. It gives the acreage of the townships.

It does not give the acreage in cities except where unplatted. The second column is the per cent. of assessed to actual value as determined by the examination of 1901. The third column is the real estate as assessed by the assessing officers. The fourth column is the personal property assessed by the assessing officer and the fifth column the total valuation of each district as assessed, and the sixth column the real estate as equalized; the seventh column personal property, and the eighth column the total of equalized valuation, equalized by the board of supervisors.

The commission ascertained from that information thus obtained the actual value of all real estate. The result of that computation and the statement of that ascertainment of value appear in table 85 on pages 374 and 375 in Exhibit F attached to the bill of complaint, for the year 1901, of most of the counties mentioned here, it is my recollection that that would not strictly apply to the figures furnished here for Houghton county and Marquette county. There was no examination made in Roscommon; the commission thought that if it was assessed for anything, it was high enough.

The table referred to on page 374 of Exhibit F in the bill of complaint includes both real and personal property. The personal property included in this table first is taken at its assessed valuation. The real estate that is included in that column, with the exceptions of those I have mentioned and the additional one of Keweenaw, which I see here, of which there was no report made would be valuation of the different counties of the State as based upon the examination made by our field men for that year. The computations were made by the direction of the commission and furnished to the State board of equalization for their guides.

The total valuation of the property in the State upon which ad valorem taxes were assessed for that year, as shown by the table which I have just described, was \$1,702,471,041.

99 (Objected to as incompetent, immaterial and irrelevant and that it is not the best evidence.)

The assessed valuation of that same property for that year was \$1,328,632,691.

(Same objection as last above.)

Q. How did the board obtain its information as to these assessed values?

A. The board required from each assessing officer in the State immediately after the work of the local boards of review is done, a statement showing the assessed valuation of the real and personal property, first as determined by the assessors, second as fixed by the board of review.

Q. And I take it that report was called for by the commission under the authority of the act under which it was appointed ?

A. Yes sir. There is a portion of the information in that table that does not relate to the values with reference to the acreage assessed. It was obtained from the auditor general's office.

Q. I ha-d you the report of the board of State tax commissioners and the State board of assessors, for the year 1902 and call your attention to table No. 5 on page 128, and particularly to the fourth column of that table headed, "Total real and personal assessed and reviewed, 1901, 1,335,109,918, and ask you if you can tell what occasioned that slight difference between the figures there and the figures in your second column of the report of the table on page 374 of the bill of complaint, I say it is only slight but it does not appear how it was accounted for.

A. I think the information relative to the assessment of the properties of the State is obtained from two different sources ; through the tax commission office and through the auditor general's office, and I think the column you show me in Exhibit F are the figures that were received at the auditor general's office and the compilation made by them ; while the figures you have shown me in
100 the report of the commission are the figures that were compiled in our office, and that report that you handed me would have been compiled after the board of State tax commissioners had closed their reviews for the year 1901, and it is possible that a portion of that discrepancy is accounted for by raises they made subsequent to June.

Q. Contained in the auditor general's figures ?

A. Yes sir.

Q. I show you again the report of the commission for 1902, and table No. 5 on page 128, and ask you if that table contains the assessed value of the property of the State subject to ad valorem taxes for the year 1902.

A. It does as compiled by our office.

That value is \$1,418,251,858.

(Same objection.)

All of the objections made to the testimony in this record were made previous to the question being answered except where otherwise stated.

The commission ascertained and determined the true value of the general properties of the State subject to ad valorem taxes for the year 1902 to be \$1,715,000,000. Of course, I couldn't answer the question as you propound it as to what they determined ; that would be a matter for somebody else to answer besides me. They so reported it. The report appears on page 69 of the report of 1902. (Report of Board of State Tax Commissioners of Michigan, 1900, Campbell, Freeman and Oakman, marked Exhibit B. Report of Board of State Tax Commissioners and State Board of Assessors, Michigan, 1902, marked Exhibit C.)

(Objected to as incompetent and not included in any official duty of the board on the contrary determined by the supreme court to be without its duty and a mere usurpation upon its part wholly incompetent, immaterial and irrelevant.)

Exhibit C was mostly prepared under my supervision. The statement appearing on page 17 of that report, Exhibit C, reading as follows: "It would be impossible to enumerate the questions raised and the matters discussed at these meetings; but with them all we emphasized the importance of listing all properties subject
101 to taxation and assessment of all at its cash value, endeavoring to point out that equal taxation and uniformity of assessment throughout the State can be accomplished in no other way; that while the old plan of assessing property at a percentage of its value prevails, and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county, and the property of no two counties will be assessed by the same standard of value" I think must be true. It sounds to me like Mr. McLaughlin's language.

(Objected to by Mr. Blair as immaterial and irrelevant.)

I think my experience in the work of the commission would lead me to the conclusion that there were very many different percentages of value in the various assessment districts of the State.

(Objected to by Mr. Blair as immaterial and irrelevant.)

I would not in any respect qualify the statement read from Exhibit C.

(Objected to as immaterial and irrelevant.)

The statement here shown me, as I remember it, is that while the method of assessing property at a percentage of value prevails, each supervisor uses his own judgment as to the percentage to be applied in his district. I would not say that each supervisor did that. It is intended in that statement to state that they make use of some percentage less than 100 per cent. in general.

Q. And will you please tell us the limits of those percentages, how low the lowest and how high the highest?

MR. BLAIR: I object to that also as incompetent, immaterial and irrelevant.

A. Well, I couldn't testify to that with any accuracy without consulting my record.

Q. I will ask you to answer the question after consulting
102 Exhibit F attached to the bill of complaint.

MR. BLAIR: I renew my objection notwithstanding the enlightenment afforded by the bill of complaint.

A. The range according to this compilation seemed to be from 31.2

to 101, and that was in the case of the man who raised blooded cattle and that was in Delta county.

A. Are there not many instances where the percentage equals 100 per cent.

A. There are not.

Q. Up to the close of the year 1902, up to the end of the period covered by the report, Exhibit C, state in a general way how extensively you yourself were present at hearings when supervisors and assessing officers were examined before the board—were those instances many or few?

A. I was present at most of the hearings—I think I might say all of the hearings that have been held by the commission unless there were more than one held on the same day.

Q. State whether or not at those hearings the fact was brought home to the knowledge of the assessing officers that the property in their assessment district was assessed, in fact, at a percentage of its true cash value less than 100 %.

Mr. BLAIR: I object to it as immaterial.

A. It was as determined by our examinations.

Q. State whether or not those supervisors and assessing officers stated to your board and to yourself the percentage which they were making use of.

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant and not binding upon the State of Michigan in this litigation what any of the assessing officers may have said.

A. Such statements have been made by assessing officers to the commissioners in my presence or some one of them.

Q. To the commission or some one of the commission?

103

A. Yes sir.

Q. And tell us in a general way whether by a large number—or give us your best recollection of the number of assessing officers who have made that statement.

Mr. BLAIR: I object to that for the same reason.

A. I would not be able to answer that question I don't think, without consulting some list showing what reviews were held or in what counties we held the general reviews.

Q. In the hearings which you have referred to, where the assessing officers did state the percentage which they were making use of less than 100 %, were they official hearings held by the commission?

A. They were.

Q. And how were the assessing officers brought before the commission?

A. By a process provided by a section of the statute, creating the commission, or defining its duties rather.

Cross-examination by Mr. BLAIR:

I was never a member of the board of tax commissioners. My duties as secretary were to keep the official records of the commission, attend to the correspondence and conduct such investigations preparatory to making the reviews as the commission directed. It was no part of my official duties to assess property or value property. As chief clerk of the board my duties are general supervision of the office force and largely the work of examinations, more so before when I was secretary, of properties for the purpose of ascertaining whether there is a review needed in a given locality or not.

104 I should qualify that by saying that it is in relation to personal property. The question of real estate is a matter that does not come within my personal supervision or examination, I do not take a personal examination of real estate very often.

There are approximately 1,300 assessing districts in the State of Michigan, including cities and the rural districts. Not familiar with real estate from personal knowledge, never having occasion to look at particular parcels, except in certain localities. Examined business properties in Port Huron, being about 200 descriptions.

I have been in a considerable number of them but wouldn't say half of them.

In the main my duties have been of a clerical sort, and so far as the valuations testified to here, as shown by computations, I have no personal knowledge of the accuracy of those computations except as it is derived principally from reports of others, from the reports of field men and from statements made by assessing officers and from the statements made and the action taken by the tax commissioners themselves. Reports of these field men were made for use before the State board of equalization, for the year 1901. The reports that had come to the board in 1899 were made a basis and then there were additional examinations, examinations of additional property made.

Those men commenced in May and they worked through May, June, July and a portion of August, 1901. There was no examination made in 1899, no systematic examination of real estate. I do not think it was deemed to be satisfactory by the board of tax commissioners. They regarded it as not as satisfactory as our examinations since have been because not so thorough in any given district. I wouldn't say that it was regarded as unreliable.

105 They regarded it sufficiently reliable that they reported it to the State board of equalization as a guide for their action. The State board of equalization accepted it in some cases and in some they did not.

Their valuation was considerably below the valuation fixed by the State board of tax commissioners.

Think in a majority of cases entire board attended general reviews, unless there were two hearings going on at the same time. Meaning by general review, a review of the entire rolls of the county

and on those occasions he had heard statements made by supervisors that they were assessing at a percentage below 100 and that in all such instances the board raised the valuation of the county and that whenever it came to the knowledge of the board at any general review that the property was being assessed at a percentage less than its true cash value, the board raised it to what the board considered to be its true cash value.

The board did so raise the valuation prior to the fixing of the average rate by the State board of assessors in 1902, prior to the 15th of September, in the counties of Bay, Saginaw, St. Clair, Macomb, Jackson, Kalamazoo, and five townships in Charlevoix. In addition to those that I have mentioned, Mackinac Island, the city of Mackinaw Island, and in the year 1901 a general review in the city of Holland. In all those instances the board raised the valuation to what it considered the true cash value. Prior to the fixing of the average rate in 1902 no general review was held in the city of Detroit and county of Wayne—though some special reviews. This county one of those which he includes as at lower percentage than cash value. There was a review held there in 1903.

The special reviews—there was one that I didn't call to mind this morning, and I think the first one that the commission held 106 was in the city of Grand Rapids in which a large number of personal properties were examined there and increased to quite an extent. In the county of Manistee in the city of Manistee and in I think two townships—two or three townships there—there was something like five millions of dollars in personal property added to the rolls upon one review.

Q. How long, ordinarily speaking, was consumed in a general review?

A. Well it depends on the different localities and how many special properties are taken up at the same time.

General reviews in a county like Kalamazoo lasted four or five days. Occasionally those general reviews were held by one member of the board.

Under a decision of the supreme court of the State it was possible for general reviews to be going on in five counties at the same time.

Q. And how did the board proceed to ascertain whether the property was assessed at true cash value or not.

A. Do you mean at the meetings?

Q. Did the member who was holding a review get out and visit the property generally?

A. Not in an entire county, no sir.

Q. He did not make a very thorough examination in four days of a city like Kalamazoo, did he?

A. No sir.

Q. Then what did he base his estimate of value upon?

A. Largely upon the reports made by the field examiners.

Q. And these field examiners were not a high grade of men, were they, as a rule?

A. We called them so.

Q. You did?

A. Yes sir.

107 Q. Wasn't it a fact that the board did not consider them to be high grade?

A. Well I don't know what answer the board would make to that question.

Q. I mean from things that were said in your presence there from which you got an understanding of what the board thought about it.

A. Well perhaps we are not talking about the same examination. Which examination have you reference to?

Q. I mean the one of 1901.

A. I don't think—

We have some of the same men with us now that we had then and they are the best ones of the lot that we have. I don't think that the force of 1901 would average as high as they do today in intelligence and capacity in this kind of work. The knowledge of the tax commission was derived in the main from the reports of these field men, and if a field man made a mistake and the tax commission put a horizontal raise on to a county, that mistake would be perpetuated one year and exaggerated.

I don't think it was exaggerated, the discrepancies would remain the same as they were before.

The property was very much over-valued in some instances by the tax commissioners, I think. They fixed as their basis for determining whether property was 100% or whether it was 75, a comparison of the assessed valuation with what they determined to be the value of that property, the sale of property in a neighborhood, or where other pieces of property were located, determined largely the value of pieces that had not been sold. The selling value where conditions seemed to be normal was taken as a standard.

By the close of 1902 the commission had in its possession 108 the results of thorough examinations in the counties that I have mentioned as having had a general review that year.

The field men were instructed as a rule to consider the various elements which go to establish value. But did not do so in the three or four months consumed in the work of 1901.

Redirect examination:

The tax commission have power under the law to change valuations appearing upon assessment rolls in a majority of districts in the State from about the first of June until about the second Monday in October.

(Objected to by Mr. Blair as a question of law for the court)

In some localities in the State the local boards of review do not finish until later than that.

Q. What influence does the commission seem to exercise over the local assessors prior to the first of June, in each year?

Mr. BLAIR: I object to it as immaterial.

Q. I will change that. What influence did they attempt to exercise in the year 1902 prior to the first of June?

A. They met with quite a number, I couldn't say how many, and I can't recall just what counties but they met with the boards of supervisors in various counties in the State prior to the time the assessment rolls were closed advising them as to their duties and giving them the result of such examination as had been made under the direction of the commission previous to that time.

Q. And urging upon them, I take it, the importance of
109 bringing the valuations up to the true cash value.

A. They always did that.

Q. Were you present at any of those meetings?

A. I was.

Q. Did you at any of those meetings hear these statements by the supervisors, that they were using a percentage of the true value.

A. I cannot testify that I did.

Q. Did it ever appear at those hearings that a percentage of the true cash value less than 100 was being used in those counties?

Mr. BLAIR: I object to it as immaterial, irrelevant and incompetent.

A. It did; that was the occasion for the visit.

Q. Now did the commission between the first of June and the first of October have a general review in all those counties that had been visited in this friendly way?

A. I would not say that it did, no sir.

Q. Then when you speak of a general review you are referring always to the event which took place between the first of June and the second Monday in October?

A. I am.

In speaking of general review, reference is had to the review which took place between the first of June and the second Monday of October. Has enumerated all counties in which general review held up to 15th of December, 1902, but general review held in 1900 in the city of Holland—figures as fixed at that review held in subsequent assessments.

In the city of Mackinac Island they did not maintain the figures fixed by the board, but did not fall back as low as they were
110 before. Tax commission had not held more than one general review in same county up to December 15th, 1902. Before a general review could be held it was necessary to have the work of the field examiners done.

And there was no general review except in a county where the field examiners had worked.

With one exception all of the field men had had experience in the assessment of property, having been supervisors or assessing officers.

(Exhibits A, B, and C offered in evidence, subject to objection by Mr. Blair that — incompetent, immaterial and irrelevant.)

Recross-examination :

There were charges preferred against quite a number of assessing officers in the State in the fall of 1900. I think there have been no formal charges preferred in 1901 or 1902.

WILLIAM T. DUST, on the part of the complainant, testified as follows :

Direct examination by Mr. ANGELL :

I have been a member of the board of State tax commissioners since the early part of 1901. Prior to that time I had about seven years' experience as assessing officer in the city of Detroit. I have my opinion as to the value of properties in Michigan. Exhibit C, being the report of the board of State tax commissioners for 1902, has my signature.

Mr. BLAIR: Objected to as incompetent, immaterial and irrelevant.

111 Last spring litigation arose in the supreme court between the board of education of the city of Detroit and the State board of assessors. Attached to the bill filed by the Michigan Central Railroad Co. in this case as Exhibit E is what purports to be the answer of the State board, and I signed the original, of which that is a copy.

Mr. BLAIR: Objected to as immaterial, incompetent and irrelevant.

On pages 69 and 70 of Exhibit C appears the certificate of the State board of assessors in connection with the assessment of railroad property.

Q. Referring to that portion of the report found in the middle of page 17, Exhibit C, the statement "that while the old plan of assessing property at a percentage of its true value prevails and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county." Does that statement set out the facts with reference to this matter as you have learned them in your capacity as State tax commissioner?

Mr. BLAIR: Objected to as incompetent, immaterial and irrelevant.

A. Well, not entirely. There are a great many differences among the assessing officers as to the true cash value of property, and I would not care to say that there are no assessing officers who do not assess at the true cash value, but there are a great many percentages prevailing.

Q. You have found in the course of your investigation officially that very many of the assessing officers in the State have not assessed property at its true cash value as required by law.

A. As found by our examinations.

Q. Comparing the results of your examination with their assessment, proceeding upon the basis that yours was at the cash
112 value and theirs were less, in very many instances?

Mr. BLAIR: I place upon the record my position with regard to this class of testimony in addition to what I have already stated, that while such evidence might be permissible in a case where the action of the State board of tax commissioners is called for, in a suit in equity like this where the allegations in the bill of complaint put in issue the values of the property in the State, that is an inquiry to which the findings of the State board of tax commissioners are not germane or appropriate.

A. Yes sir.

Q. Calling your attention to page 20 of this report, Exhibit C, speaking of the conferences with the assessing officers and the report you require from them, the report proceeds: "In many cases the assessors disregarding our suggestion, chose to take their own estimates of value and made no appreciable change from their old methods; but a large number profited by the information gained and made creditable efforts to place the property on the rolls at or near cash value." Calling your attention to that passage, is it a fact as you find it, that the assessors, despite your efforts, continued to assess at a percentage in many parts of the State?

Mr. BLAIR: I object to that question for the reasons given and on account of calling attention of the witness to a passage in a book for the purpose of examination.

A. I would say that the efforts on the part of the assessing officers in meeting the views of our commission as to cash values, tend in the right direction, that is, their assessments of last year and this year are better than they were the years previous.

Q. And was it a fact that, say on the first day of January, 1903, after your efforts of 1902, that a very considerable number of the
113 assessments in the State were in the judgment of your board, its honest judgment, still far below the cash value?

A. They were still below the cash value based upon our examinations in that time.

Q. Could you give us any idea what proportion of the assessors of the State up to that time had put their assessments to what you deemed to be the true cash value, and what part had not?

A. No sir ; I would not attempt to.

Q. You wouldn't attempt to classify them in that way ?

A. No sir.

Q. I call your attention to paragraph 11 of the paper marked Exhibit E, that I show you, the answer in the board of education case, which reads as follows : " This respondent, namely, The State Board of Assessors, charges the truth to be that the undervaluation of the property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes, throughout the State was not the result of accident, inadvertence or mistakes in judgment, but that such under-valuation of such property was in a large number of the municipalities of the State, intentional and general and that this practice of under-valuation had been in vogue in this State for a great number of years, and that if the court desires to examine the data upon which the foregoing statements are based, it will be furnished." Now I say, refreshing your memory by that passage, let me ask you how you have found the matter in your investigations as to whether this undervaluation was inadvertent, accidental or intentional.

Mr. BLAIR : I object to that question as incompetent, immaterial and irrelevant.

A. Well, there were some of each, some were through ignorance, some through carelessness, and some intentional.

Q. Is it in your judgment true that in a large number of
114 municipalities throughout the State that such undervaluation was general and intentional ?

A. I would not care to answer that. In the examinations had by the commission in examining the supervising officers, the assessing officers, in a great many instances they would insist that they had assessed at the true cash value, though our examinations and the transfers as verified by us would prove to the contrary ; some would admit that they had assessed at a certain percentage, but a great majority of them would insist that they had assessed what they in their judgment thought to be the true cash value.

Q. Such men as that made a distinction between the actual value for selling purposes and the true cash value for assessing purposes, did they not ?

A. The figures seem to show that.

Q. Was it the only explanation they could make ?

(No response.)

Q. You are familiar, I apprehend, with the tables attached to this report which you signed in 1902, in a general way ?

A. Just in a very general way—superficially.

Q. You heard Mr. Twiss' testimony as to the percentages figured out here, the differences between your judgment of the actual value and the assessed valuation ?

A. Yes sir.

Q. Are you satisfied that the percentages as figured are substantially correct?

A. I am, yes sir.

Q. Now I call your attention to the fact that this Exhibit E about which we have just been speaking, and from which I have read you, is signed and verified by you and I desire to ask you this question with that before you: Do you desire in any way to qualify your statement which you and your associates made under oath in that paragraph, in what you have just stated?

Mr. BLAIR: I object to that as incompetent.

A. I wouldn't want to qualify it excepting to say that if this sets out that all the under-valuation is intentional, then I do want to qualify it, because, as I stated before, that some are a mistake of judgment on the part of the assessor; some are the result of indolence and carelessness and some of it was intentional.

Q. And is it true, as stated here, in order that there may be no misunderstanding about what you have testified to, that such under-valuation of property was in the larger number of counties in the State intentional and general?

A. I will allow that to stand.

Q. That is true?

A. Yes sir.

Q. I have now the original roll from which the certificate found on pages 69 and 70 of Exhibit C is a copy.

A. If that is a copy of this I will say this is my signature. I signed this. (Page 50 of the first roll marked Exhibit D.)

Mr. ANGELL: I offer in evidence this last exhibit which was identified by the witness, being Exhibit D.

Q. Are you able after comparison with the original Exhibit D, with pages 69 and 70, Exhibit C, to state whether the latter is a correct copy of the original Exhibit D?

A. Yes sir.

Q. Are the facts set out in the certificate which I have just read to you, and which you have examined, true as stated, in your own best judgment?

116 Mr. BLAIR: I will object to that as incompetent, and immaterial, the paper shows for itself and speaks for itself.

A. It was as ascertained by the examinations had.

Q. That was the deliberate judgment of your board on that basis on the date this paper was signed, December 12, 1902?

A. Yes sir.

Q. Mr. Butterfield calls my attention to the point that in handing you this book, Exhibit C, I failed to call your attention to this: To yourself and your associates as the board of State tax commissioners, and I call your attention to the signature at a later point, and perhaps I should show that to you. The signature that I showed you

was where you sat as a board of assessors, and that there may be no misunderstanding about it, the report to which I intended to call your attention is the one that ends at page 49, in the first instance. That is your report as a member of the State tax commissioners?

A. Yes sir.

Q. And to the matters set out in that report you subscribed your name and believed the things therein set forth to be true, did you not?

A. Yes sir.

Q. Now Mr. Twiss has stated in our hearing something about meetings of your commission with the boards of supervisors or with individual assessing officers from time to time when the question of their rate per cent. of assessment came up, did you hear his testimony about that?

A. I did, yes sir.

Q. What is the fact as to whether your commission, or you individually, have met with the local assessors and discussed with them the question in an official way of their percentage valuation; has such a thing taken place?

A. Yes sir.

Q. Many times?

117 A. Well at about every meeting that we have had we have had that subject up.

Q. As well when you have special meetings or special reviews as when you have general reviews?

A. Yes sir.

Q. What is the fact as to whether in such meetings, when you have been acting in your official capacity, the supervisors have admitted to you that they were assessing at less than what you deemed to be the true cash value?

Mr. BLAIR: I object to that.

A. I cannot remember any specific instance of that kind.

Q. You don't recollect specific instances of that?

A. No sir, not if you ask me to mention a particular supervisor, I couldn't do it.

Q. Can you state whether they have at any such meeting admitted to you that they were assessing at what they considered less than the true cash value?

A. Yes sir.

Q. They were local assessors?

A. Yes sir.

Mr. BLAIR: I object to that as hearsay and incompetent.

Q. That you do recall?

A. Yes sir.

Q. As to whether that has been infrequent in your experience?

A. It has been rare.

Q. That they would admit it?

A. Yes sir.

Q. But they have at times admitted it?

A. Yes sir.

118 Cross-examination by Mr. BLAIR:

(The roll for 1902 upon which the auditor general has actually proceeded to collect called to witness' attention and marked Exhibit F.)

The difference between the two rolls is the change in the rate as determined after the hearing is had. The rate in the second roll is established in accordance with the determination of the court.

I was appointed upon the tax commission during the session of the legislature of 1901, and have been actively engaged in the performance of its duties since May, 1901.

Has attended general reviews and made special reviews, and been engaged in carrying out the spirit of the act under which appointed, with the purpose of placing all property in the State upon a true cash basis, which was accomplished in numerous counties prior to fixing the average rate.

The supervisors of the State, as a rule, are men of reasonable intelligence, and of good social standing.

In a great majority of instances where discussions arise between members of the State board of tax commissioners and the supervisors, they insist that the values which they had placed upon the property were, in their judgment, the true cash values of the property; and only in rare instances I found that a supervisor would admit that he was intentionally assessing property below the true cash value. I didn't always agree with them when they said that they were endeavoring to assess it at the true cash value. I think that a majority of the supervisors honestly endeavored to assess the property at the true cash value. In my judgment and opinion there

119 are as many opinions as to the value of certain properties as there are men viewing it. On the board of tax commissioners there were five opinions as to the value of property in most instances. We generally arrived at the value of property by giving and taking, as they call it.

Lack of time was the reason the board did not cover more of the counties of the State prior to fixing the average rate in 1902. Attempted to arrive at the true cash value of property from examinations had and made by the field men employed in examining the transfers of property sold, by verifying the considerations and actually visiting some of the property.

The course pursued by field men with reference to valuing property was to go to either one or both parties to a transaction and ascertain from them the actual amount paid for a given property; they would also in addition to that view the property themselves, pass their own opinion upon it as to the value of it, making inquiries from well informed people in the neighborhood adjoining the prop-

erty, or in the vicinity of the property, and then taking at least one section, one piece in every section of a township and examining it carefully, and passing their own judgment upon it, asking the owner thereof as to what he thought the value was, and again inquiring of neighbors and well informed people as to what their idea of the value was, and by all of these methods attempting to arrive at the actual cash value of the property, always under the instruction of the commission to be conservative in their ideas as to the value. This was the character of the examination made in 1902 and in four months of 1901. The examination of 1901 was declared defective and altogether unreliable. The members of the board relied very largely upon the work of the field men in 1902.

And generally had no knowledge of the property up to the time of the meeting for the review, and at a review would pass upon the rolls of a great many wards or townships, and it was impossible to become familiar with specific items of property, so they proceeded by percentages and made horizontal raises except in a few rare instances.

120 In holding general reviews we had the field notes of our examiners with us, and a copy of the transfers from the register of deeds' office before us, and then we had a table prepared by our office force showing the total valuation of the county as shown by the returns made by the local assessing officers, and another column showing the amounts that it should be valued at in accordance with our examinations, and some other column showing the percentage lacking to bring it up to 100%, etc., then we would first meet with the supervisors as a body and talk to them collectively, and argue with them as to their duties, and pointing out to them their rights in getting the sworn statement of the individual taxpayers of their towns, and then meet with them individually, confidentially, away from the balance of the board, and then go over every individual item that we had, in some cases having 150 items to go over with each individual assessing officer, and in that sort of a way get them to agree with us as to the value and the assessment that their properties ought to stand there. Washtenaw county was not reviewed but has been examined by our men and was said to be very well assessed. I think as near up to cash value as may be without knowing more definitely, I would not wish to say that it had been deliberately and intentionally undervalued in 1902. Had examined Genesee county, except four townships and the city of Flint reports show it to be at about 85%.

In arriving at the average rate, State, county, municipal, school and township taxes only were considered.

No assessor ever said in his hearing that they were endeavoring in undervaluing to discriminate against the railroad corporations.

(This, under objection by Mr. Angell of irrelevant, incompetent and improper cross-examination.)

Q. Now from your experience, and in talking with the supervisors,

and in making valuations of the property of the State in the
 121 discharge of your duty as a member of the board, state
 whether or not in your opinion the undervaluations of prop-
 erty which were made by supervisors were made with an intention
 of discriminating against the Michigan Central Railroad Company
 or any of the corporations covered by act 173 of the session laws of
 1901.

A. I do not know, I am sure, what the supervisor or officer might
 have had in mind.

Q. Did you from any information which you gained arrive at the
 conclusion that there was anything more in the under-valuation
 than for the benefit of the locality where the assessments were made?

A. That was the reason if they admitted it at all, that was the
 only reason they gave, in order to get even with the other fellow
 adjoining them.

Q. So as to equalize their taxes?

A. Between towns, yes, sir.

WILLIAM T. DUST, recalled for further cross-examination, testified
 as follows:

I have no knowledge of any county in the State which was in
 1902 assessed as low as 30%. I don't think there was any assessed
 as low as 30% in 1902.

Q. What would be your judgment as to about the percentage at
 which the State was assessed in 1902, give your best estimate.

A. Well, I should think from 85 up—85 up to 95 or 96, or along
 in there.

That in making the report to the State board of equalization it
 was intended to give the board our best judgment at that time.

And later on in 1902 we lost sight of that report altogether
 122 and made an independent valuation upon more careful
 lines and closer investigation. Think report to the last board
 of equalization estimated the cash value of the property of the State
 at \$1,702,000,000, which was increased by \$13,000,000 in making the
 estimate for the purpose of first fixing the average rate in 1902, mak-
 ing \$1,715,000,000. The 13 million consisted, to a large extent, of
 personal property. There has been a larger percentage of increase
 in personal property than in real estate during the past two or three
 years. The increase in personal assessments commencing with
 1900, being: 1900, \$310,997,015; 1901, \$315,141,085; 1902, \$331,-
 433,531.

There was a considerable increase in the value of property of the
 State during the years 1901-2—intrinsic value, along with the pros-
 perous times we have had property has intrinsically increased in
 value. It would not necessarily follow that because a certain prop-
 erty, for instance a manufacturing plant, had been increased in 1903
 over what it was in 1902, that it had been under-assessed in 1902.
 The increase might be due to the prosperous condition of business,

which had increased the value of the plants, and this is especially true of franchises of corporations. There was a considerable increase in the value of street railway properties in 1902.

Being approximately about 10 millions.

There was invariably a difference between the members of the tax commission as to the value of property when we sat together, being three, or four, or five; the difference ranging as high as 15 per cent. If, in looking over the local assessors' valuations, those were found to be 5 per cent. less than the value which the tax commission fixed, we would frequently give the assessor the benefit of the doubt; that it was an honest difference of opinion and pass the assessment.

123 Redirect examination :

Has not had occasion to determine in his own mind whether Washtenaw at 100, or 90, or 80 per cent.

Q. In that connection yesterday you stated something of this kind: That the supervisors when asked to explain their low valuations said that they did it to keep even, or something of that kind, can you recall the question?

A. Yes sir.

Q. What did you mean by keeping even?

A. With the adjoining town. They were fearful if they assessed as the law directed that the adjoining town not assessed at the same ratio, would get the advantage of them when they came to equalizing between towns, the fall equalization in the county.

Q. Do I understand you to say that was the general and usual excuse that men gave when you took the question up with them?

A. It was by those who would admit it at all, that they were assessing at less than value.

The board fixed the gross total valuation of the State at \$1,715,000,000. The aggregate of the total valuations placed by the assessors was \$1,418,251,858, approximately 296 million less than the figures reached by our board. If the difference between the two large figures that have just been named would result within a fraction of about 82% for the assessed valuation by the local assessors, then it is true that taking the State at large, the average valuation reached by the assessors would be about 82% of what was fixed as the true valuation. In arriving at that 1,715,000,000 there was of course a controversy and a difference of opinion on the board at that time. Some were even higher than that and some were lower than that. The ten million dollars added to the so-called franchise value of corporate property was added in 1901 or 1902. That was one of the cases spoken of, when after a conference of views we

124 reached a joint conclusion; and a final determination necessarily stands as the action of the board.

The increased valuation was due to increase in business prosperity and to the fact that the franchise value was taken into consideration in arriving at the value which before that time had not been paid

much attention to. Some of it was new property, but with reference to existing properties was an increase in the appraised value, due to the condition described. And this figure passed into the 331 million dollar figure for the year 1902 previously read, it being for the year before 315 millions. Some of the 10 millions would be real estate and would not be represented in the 315 millions.

Q. Now in answer to a question of the attorney general this morning, I understood you to say that you thought the percentage of assessed to true valuation ran from 85 to 95 % at the present time. Do I understand you correctly?

A. I include the present year in my answer. I honestly think that the average for 1902 would run higher than 82 %, though it would not go beyond 90 % in my opinion.

The board, acting as a board determined and so certified that as shown by those figures made, about 296 millions was the difference between the aggregate assessed and the true cash values of all the property. That was the conclusion.

Q. The point about it is this—I don't want to ask you to take a pencil and paper and figure out percentages at the present time—I understand that the percentage is 82 and some decimal between these figures we have talked about, and I simply desire to ask you, assuming that it is 82 decimal, was that the deliberate determination of your board, you and your associates acting as a board, did I understand you to say it was such?

A. Yes sir, it was.

125 Recross-examination:

Witness handed Exhibit F to the bill of complaint, and the report of the State tax commission for 1902 (Exhibit C) and requested to examine pages 374 and 375 and give figures recommended by the State board of tax commissioners to the State board of equalization in the year 1901, and also to give from the report of the commission for 1902 the reviewed assessment as made by the commission for certain named counties. This was given as follows:

	From Exhibit F.	From Exhibit C.
Bay.....	\$26,077,673	\$26,303,303
Saginaw.....	41,997,094	39,442,671
Jackson.....	37,838,738	34,666,749
St. Clair.....	34,691,206	32,002,861
Macomb.....	31,026,777	26,688,500
Kalamazoo.....	34,305,210	29,599,282
Kent.....	106,244,208	94,498,141
Washtenaw.....	36,143,162	34,794,531
Manistee.....	13,395,665	11,182,660
	<hr/> \$361,719,733	<hr/> \$329,178,698

That difference in those several counties was found by the board to exist as compared with the figures reported to the State board of equalization. The estimate to the State board of equalization overran the latter values, the values given for 1902 were the result of a more thorough, careful and reliable examination, and during the intervening time there had been the increase in values previously spoken of, due to the prosperous conditions of the country.

Witness' attention called to certain pages of Exhibit F to the bill of complaint and also Exhibit C, report 1902, and testified therefrom as follows:

	Personal property as reviewed by tax commissioners from Exhibit C, report 1902.	Assessments personal property, Exhibit F to bill.	Equalized by county boards.
Bay	\$5,636,973	\$5,159,508	Same.
Saginaw.....	11,182,741	10,791,500	"
Jackson	7,761,764	6,859,894	"
St. Clair.....	6,929,886	4,782,900	"
126 Macomb.....	5,958,125	5,068,335	Same.
Kalamazoo.....	8,607,687	6,280,618	"
Kent	26,855,090	21,629,589	"
Washtenaw.....	8,065,332	7,715,001	"
Manistee.....	4,891,250	5,709,233	"
Total	\$85,888,848	\$73,996,578	

Q. To sum this up, is it not a fact that in 1902 when the board of State tax commissioners had caused a more careful examination of the properties of the State to be made, not including the property covered by act No. 173 of the Laws of 1901, that you found that even with the natural increase in the values of property and the addition in bringing into being that new property during one of the most prosperous years in the history of the country, that the item of \$1,715,000,000 was thought too high even so far as the few counties which you had to inspect were concerned, by about 31 millions of dollars?

A. That is made apparent by this showing.

Redirect examination.

The figures in Exhibit F to the bill in column marked "Total valuations equalized" represent the values as equalized by the county officials. The personal properties were not before the State board of equalization.

Q. Your attention has been called by Mr. Blair to several counties, to the results, of comparative examinations in different years.

When your board determined to figure which you have spoken of several times, 1715 millions, that determination was reached, was it not, after all the field work and the conference work and the work of the supervisors, etc. for the year 1902, and made later in the year?

A. Yes sir.

127 Q. And in the light of all the experience which the board had had up to this time growing out of the examination and conferences and investigations of all kinds?

A. Yes sir.

Recross-examination :

Q. You have already given us the value upon Exhibit F, and from the tax commission report of the total real and personal — for the various counties which I have mentioned and making the deductions from the total which you have given, I find the following state of facts: That as recommended by your board to the State board of equalization in 1901, the real estate of Bay county was assessed at \$20,918,165; the real estate of Saginaw county was assessed at \$31,205,594; and the real estate of Jackson county was assessed at \$30,978,844; the real estate of St. Clair county was assessed at \$29,908,306; the real estate of Macomb county at \$25,958,492; of Kalamazoo county, \$28,024,492; of Kent, \$84,614,619; of Washtenaw, \$28,428,161; of Manistee, \$7,686,432; and pursuing the same course with reference to the deduction of the personal property from the total as reviewed by your commission in 1902, I find that the real estate of Bay was fixed by your board at \$20,666,330; of Saginaw \$28,259,930; of Jackson, \$26,904,985; of St. Clair, \$25,072,975; of Macomb, \$20,730,375; of Kalamazoo \$20,991,595; of Kent, \$67,643,051; of Washtenaw, \$26,729,199; of Manistee, \$6,291,410. And the total of real estate as recommended by your board to the State board of equalization in these very counties, amounted in 1901 to \$287,723,155, and as actually determined by your board on its review in 1902, the total of the real estate in these various counties amounted to \$243,289,850, which, according to my computation, is

84.6% of the amount reported to the State board of equalization.
128 If that is the correct computation, then your board actually found that the real estate as estimated by you at its true cash value was only 84.6% of the value of the real estate as you have recommended its value to the State board of equalization, that would be correct wouldn't it?

A. Yes, that is correct if your figures are correct.

Redirect examination :

Q. In other words, the recommendations of 1901 you modified on further examinations in 1902?

A. Yes, sir.

Q. That is the long and short of that story?

A. Yes sir.

Q. After you made the modification and all other modifications which your experience showed you to be necessary, then in December 1902, you fixed upon this figure of \$1,715,000,000 as the true cash value?

A. Yes, sir.

JAMES C. McLAUGHLIN, on the part of the complainant, testified as follows:

Direct examination by Mr. BUTTERFIELD:

I reside at Muskegon, Mich. My age is 45. I am a member of the State board of tax commissioners, and *ex-officio* a member of the State board of assessors. I was appointed a member of the State board of tax commissioners in January, 1901, and when the act was passed creating the board of assessors, I became a member of that board. That was passed by the legislature of 1901. I assumed my duties about the 23rd of January, 1901, and from thence hitherto have given my attention and time to the work of these two boards.

129 I think the first work that I did of any consequence was in the line of visiting the counties, talking with the boards of supervisors as to their duty as assessing officers. Visited Menominee, Berrien, Saginaw, Bay, Ingham, and Kent in 1901. The purpose of my visit in 1901 was to have a general talk with the supervisors concerning the work that was upon them as assessing officers and upon us. Previous to our visits of 1901, I may say I had no information except the most general knowledge; I never had made any investigation of their assessment.

Mr. Blair adds to the objection here that fieldmen occupy no official position and that reports made by them are hearsay and incompetent.

We had a report known as Exhibit A which purported to give a comparative statement of considerations in conveyances as compared with the assessed valuation.

In those visits to the boards of supervisors we did not call attention of the boards of supervisors to the statements contained in Exhibit A, and made no allusion to it whatever. In connection with this, if we ever referred to it, I stated that we had repudiated it entirely and placed no dependence upon it and would base none of our work upon it.

Q. The information then which was in your possession when you visited these boards, was that the general property in the State subject to ad valorem taxes, was not assessed at its true cash value, wasn't it?

A. Reports of that kind had come to me, yes sir.

Q. And you went into the counties referred to upon the assumption that that was the fact, did you not?

A. To talk with them upon that subject and upon that way of doing business.

130 Q. And you went with the assumption to them and talked on the basis and upon the assumption that that was the fact, did you not?

A. In many cases, yes sir.

Q. Was there any exception in the counties that you have named?

A. Well, I don't know, I didn't have information enough to know how the assessing was being done.

Mr. BLAIR: I object to this method of examination, I don't think it is a proper examination in chief, it is practically a cross examination and arguing with the witness.

A. Well, I don't think I can say yes to that hardly.

Q. Then in what cases, please note the exceptions to that.

A. Well I can hardly say, we had reports that that kind of work was being done in some parts of the State, and we wanted to talk—

Q. Subdivision 9 of section 150 of act 154 of the laws of 1899 authorized the creation of your board and made it the duty of the board "to report to the legislature at the beginning of the regular sessions specifically true values of the properties of corporations paying specific taxes, and the rate of taxation actually paid upon such valuation and the true valuation of all other properties of the State and the rate of taxation the same are paying, to the end that the legislature shall have the information necessary to rearrange the rate or system of taxation of such properties so that all taxable properties of the State may be taxed uniformly." Do you remember of making use at all in your visits to the board of supervisors of the contents of subdivision 9 referred to—didn't you call their attention to the fact that it was one of the duties of the board to ascertain the true value of the property of the State and compare it to the assessed valuation. In 1901, prior to the first of June, these visits you have spoken of to these various counties and meeting with the boards?

131 A. We did talk to the supervisors, yes sir, upon those lines.

Q. Did you ascertain in those meetings or during those visits to the counties, or did you acquire any further information as to whether the property in those counties was actually assessed at its true cash value or not, either by conversations with the supervisors themselves or otherwise?

A. No sir.

Q. You acquired no additional information as to the fact whether property was assessed at its true cash value by those visits?

A. I wouldn't say that we did on visits of that kind.

Q. Didn't you ask the supervisors in a confidential way whether

they were assessing at the true cash value or at a percentage of the true cash value of the property?

A. At those general meetings?

Q. That is what I am speaking of, that you have referred to prior to the first of June.

A. Well, sometimes, yes sir.

Q. Sometimes you asked them what the fact was?

A. Yes, sir.

Q. And did they uniformly say that they were assessing at the full true cash value?

A. No.

Q. And in the case when they didn't say that, what did they say?

A. Well, one would say one thing and another another thing, they didn't all answer alike.

Q. Did any of them say that it had been their custom to assess the property in every district at some percentage of its true value less than 100%?

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

A. Some of them made these statements, yes sir.

Q. Then when they made that statement, didn't that afford you information to the effect that the law was not being complied with in those assessing districts?

A. Yes, sir.

Q. Then as a matter of fact, in cases where you did hear those statements you obtained some additional information in addition to what you had when you made the visit?

A. We had their statements, yes sir.

Q. You treated that as information, didn't you?

A. Treating that as true, we had additional information, yes sir.

Q. And you did treat it as true, did you not, at that time?

A. Well I usually accepted those statements as true.

Q. Now these statements were sufficiently general, weren't they, to induce the board to take definite measures to verify the information contained in Exhibit A being the list of considerations, lists of transfers.

A. I don't know, as you put that question, to verify them.

Q. Well I will put it that way, was that practically true?

A. We refused to accept it because those percentages were misleading.

Q. When you were appointed, you say, in 1901, the first duty you performed was to give an opinion as to the reliability of Exhibit A?

A. Yes sir.

Q. And you then gave the opinion that those percentages were unreliable?

A. Yes sir.

Q. Then you based that opinion upon your general knowledge of

the custom of putting considerations into deeds, not upon any information you had obtained as a member of the tax commission?

A. Yes sir.

Q. Now laying aside Exhibit A, is it a fact that the statements you have referred to coming from local assessors that they were assessing property in their districts respectively at some percentage of its true cash value less than 100 %, were sufficiently general to induce you and your board to make further investigation along the lines pursued in compiling Exhibit A?

A. We had some such statements from supervisors and it was our duty to ascertain whether others were doing—what work others were doing, not the work but what the supervisors of the State were doing, and we made the investigation to ascertain the facts.

Q. And you reached a conclusion, did you not, before you ordered that large expenditure of money, that the practice of assessing property at less than its true cash value was quite general in the State?

A. That there was more or less of it.

Q. That it was quite general?

A. That there was more or less of it, I couldn't say how much of it as compared with the whole.

Q. But of course that expression "more or less" really does not signify anything particularly as it seems to me; of course, there was more or less, but isn't it a fact that you personally reached the conclusion that after having made those visits prior to the first of June, 1901, and after having learned what the other assessors knew of that work, you personally reached the conclusion that the practice of assessing property at less than its true cash value and at some percentage of true value, less than 100 %, was quite general through the State?

MR. BLAIR: I object to that question as incompetent, immaterial irrelevant and leading and not proper examination in chief.

A. The information I had there you say was based on the statements made by the supervisors largely?

Q. No, read the question. (Last question read.)

A. I became satisfied there was a great deal of it going on, yes sir.

Q. Was that also the opinion of your associates on the board as expressed officially in the meetings of the board?

134 MR. BLAIR: We object to that.

A. Yes sir.

Q. What steps were taken by the board to ascertain what the fact was and whether your conclusion was well founded?

A. Well, a great deal of our time was taken up by getting the information for the State board of equalization, but most of our investigations of that year were made to enable us to advise the State board of equalization.

Q. That was all completed prior to what time, your final submission to the State board?

A. About the middle of August.

Q. And your final recommendation to the State board of equalization was in August, 1901.

A. August 1901.

Q. Please state fully what that recommendation to the board of equalization was based upon.

A. Well, principally it was this: We took the record of the transfers of real estate which we had in our office, transfers that had been recorded during the year preceding, the year ending June 30, 1899—

Q. Now just a moment there, let me interrupt you. Do you refer now to the transfers included in Exhibit A—did you have any additional information as to the transfers beyond what is contained in Exhibit A?

A. In Wayne and Kent we have.

Q. But not in any other counties?

A. In other counties we had no additional information.

Q. Then you had to make use of the conveyances as stated in Exhibit A?

A. The conveyances that we took and used were taken from the same reports that these conveyances were taken from.

Q. In Exhibit A?

A. Just which ones we took and how we took them I don't remember now, but the basis of the two was the same.

Q. Now then proceed with the answer to the other question.

A. Field men were engaged, a few at first to go out into the State, they had these transfers, these transcripts, and it was their duty to try and prove the considerations and to ascertain if the true considerations were stated in the deeds, if not, to find what the true considerations were and to compare those considerations with the assessments of the same property and to view the property and get a judgment of their own as to the value of the property that was sold; later on more men were engaged; as time went on we found they were not making the progress we had expected and before the work was finished we had quite a force of men, I don't know just how many, probably 30.

Q. Give us your recollection about that.

A. It would be only a conjecture now, 25 or 30, but that large number was employed only towards the last as we became hurried. These men made reports to us and they were tabulated, showing the percentages of the different townships.

Q. Now can you remember the name of the first man that was employed to do this field work?

A. Two men were employed then at the same time, Samuel M. Bibbins and James L. Gilbert, both of Washtenaw county.

There were several employed immediately after that but I think the next two in order were Mr. Bolt and Mr. Horton, whom I recommended from Muskegon county. Bibbins, Bolt and Gifford are still

in the employ of the commission, and do the same general line of work. I think Mr. Bibbins and Mr. Bolt are among our best men.

Q. Now they were employed among the very first to start this field work, and you have said that they were directed to take with them the reports of the registers of deeds as to the considerations named in conveyances recorded for the year ending June 30, 1899, as embodied in Exhibit A?

136 A. There were certain changes and eliminations, certain ones stricken out.

Q. After certain eliminations were made?

A. Yes sir.

Q. No additional reports were called for from the registers of deeds?

A. Except in the city of Detroit and the county of Kent, it seems to me there were others.

Q. You have said then that they were instructed to verify the statement contained in a deed as to the consideration. Will you please state how they were directed to verify those considerations?

So far as time would permit, the field men were requested to talk with the supervisors or some other well informed person in the township, sometimes seeing and talking with one or the other of the parties to the transaction, and to make a personal view of the property as far as possible in the limited time.

The examinations now made occupy more time and are much more thorough, than those made in 1901.

The view of the property, one piece in each section, was not for the purpose of ascertaining whether the consideration was proper. The idea of it being to try and prove the consideration of the sale, to see one piece on each section of land where there had not been a sale.

Q. Is there any substantial difference in the instruction given to those field examiners today or in the year 1903, from that which was given to them in 1901?

A. We give them the same only more of it.

Q. So that your experience has shown, and the experience of the commission for 1901 and 1902 and 1903 has shown that the instructions given in 1901 were correct so far as they went at least, and your experience has taught you to approve that method of ascertaining the value of the property, is that so?

A. It is the best plan we have discovered; I cannot say
137 that I approve it all.

Q. It is the best plan you have discovered?

A. Yes sir, I don't know of any other way to do it.

Q. How much of the State of Michigan was covered by men who were directed as you have stated in the year 1901, prior to the first of June or prior to the report to the State board of equalization?

A. Nearly all of the State.

Subsequent to the adjournment of the State board of equalization in 1901 and prior to the second Monday in October we held some

special reviews. In Manistee, Ottawa, Chippewa, Saginaw, and Bay counties very few fieldmen retained after August 1901. A few who were retained worked principally in the field.

Continued doing field work as previous to August and preparation for reviews during 1902 prior to June, which work of commission was similar to that of 1901, visiting counties during the regular meetings of the boards in January, and the same general field work was going on. Prior to June of that year was in Kent, Kalamazoo, Muskegon, Ottawa, St. Clair, Macomb, Saginaw and Bay.

Some of the meetings held for general talks. At some of these meetings we had more or less extended talks with the supervisor about his work, as shown by the field report. This was before the assessments were completed, and while he was engaged in his assessing work.

In each county visited in 1902 we had two examinations—the work on which the report to the board of equalization was based, and the additional field work subsequently. The last examination and the one which was relied on, is not that embodied in Exhibit F and has never been tabulated, but the information was conveyed to the supervisors in 1902 and is on file in the office.

138 In the year 1902 we had certain general reviews in certain localities and also certain special reviews; we also had field work done in still other localities. General reviews were held in St. Clair county in 1902, the entire county.

My recollection is that there was a general review in the counties of Bay, Kalamazoo, and Jackson; the city of Saginaw wasn't included in the reviews of Saginaw county. There was a review of a portion of Charlevoix county, and the city of Mackinaw Island. There was a general review in Macomb county.

St. Clair has been entirely reviewed, but whether a part of it was done in one year and a part in another I don't know. I never have done anything myself in St. Clair. There was an entire re-assessment of Port Huron in 1902 and a new assessment roll made entirely, the townships of Clay, Columbus, Cottrellville, and Kimball, that is only a portion. The counties in which there was a general review in 1902 covering the entire county are Macomb, Bay, Kalamazoo and Jackson. There were special reviews held in St. Clair, Saginaw, Charlevoix, Mackinaw and some other counties.

With the exception of the city of Grand Rapids in Kent county, and Mackinac Island in Mackinac county, the entire counties referred to had been examined but the reviews were special as to parts only of the counties.

We proceeded differently in the different reviews. Sometimes special reviews related only to individuals and their personal assessments.

In 1902 the counties which we undertook to bring to cash value were the four named—Macomb, Bay, Kalamazoo and Jackson. That must be qualified by saying that in some cases the parts were taken which we accepted as correct where we had general reviews

in taking a portion of the county. Such was the case in Kent and Saginaw. The part we acted upon we put up to what we
139 believed to be true cash value.

And was satisfied to leave the portions not included in the review as they were. We didn't think they required our attention. The plan was to publish a notice of the review, fixing the time and place of the review, and if it was special, it simply related to property of certain named individuals.

(Copy of notice of review marked Exhibit G.)

(Under objection, by Mr. Blair, as incompetent, immaterial and irrelevant.)

In 1902 the review in Kent was general outside of the city of Grand Rapids. What was done in the city was special.

There was an attempt to ascertain the percentage of the assessed to true value in the portion that was not reviewed. Made an examination of the entire city, but made no change in valuations as a whole.

We had other information in the city of Grand Rapids besides field notes, which inclined us to disregard the field notes so far as to decide that it was not necessary to hold a review on the real estate assessments in the city of Grand Rapids.

(Under objection by Mr. Blair, as immaterial and irrelevant.)

We had numerous conferences with the assessing officers in Grand Rapids and gathered a good deal of information as to the value of property there, and the manner in which the supervisors or assessors were doing their work. The assessments in Grand Rapids as a whole, had increased in three years—or from 1899 to 1901—approximately from 28 millions of dollars to 71 millions of dollars.

And we thought that the aggregate of the city was not far out of the way. We attributed a great deal of the increase to the work of the tax commission and the assessors; the increase in value of Grand
140 Rapids from one time to another had something to do with it.

There were some figures submitted by field men to the effect that property was still assessed at a percentage of its value less than 100, but for reasons stated to the commission we saw fit to omit a general review of Grand Rapids.

Exhibits H, I, J, K, and L purport to be tabulated statements of the result of the work of field examiners in the year 1902 in Shiawassee, Montcalm, Clinton, Calhoun and Menominee counties.

I do not remember whether field work performed in entire of those counties in year 1902.

Have definite recollection of examinations in counties Shiawassee, Montcalm, Clinton, Calhoun and Menominee.

Exhibit H (Montcalm county) handed to witness and question asked, "Do you find in that report a statement of the percentage of the assessed to true value of the property for the year 1902 in that county?"

(Objected to by Mr. Blair, as immaterial and irrelevant and incompetent to make examination with reference to these papers which have been marked as exhibits for the reason that they are not authenticated in any way.)

A. The paper contains figures which purport to be percentage of assessed to cash value in the townships of Montcalm county, being result of work of field examiner in 1902, and (under objection, by Mr. Blair, of immaterial), the examination in Montcalm was one of the kind that we consider the best we have done.

Q. I then ask you to state the percentages of assessed to true valuation or to cash value in the different townships and cities in Montcalm county as shown by the report which you hold in your hand, Exhibit H, and in connection therewith state the percentage of assessed to cash value, as shown in the report submitted by your board to the State board of equalization in the year 1901 appearing on page 347 of Exhibit F attached to the bill of complaint.

141 (Objected to, by Mr. Blair, as incompetent, immaterial and irrelevant and hearsay.)

Percentages read as follows:

	Exhibit F, report b'd equalization.	Exhibit H, work fieldmen.
	%	%
Belvidere.....	37.9	54
Bushnell.....	71.2	68.1
Bloomer.....	70.3	66.5
Cato.....	47.7	50.2
Crystal.....	62.5	61.5
Day.....	71.9	67.9
Douglas.....	49.2	60.5
Eureka.....	65.6	77.
Evergreen.....	82.1	74.7
Fairplains.....	56.2	69.8
Ferris.....	52.6	61.1
Home.....	59.4	70.6
Maple Valley.....	44.9	49.3
Montcalm.....	65.1	66.3
Pierson.....	53.4	72.1
Pine.....	54.1	53.2
Reynolds.....	37.4	42.9
Richland.....	58.1	61.6
Sidney.....	44.	54.3
Winfield.....	52.3	48.3
Greenville city.....	68.1	69.7
City of Stanton.....	80.3	81.

Saw report after it came from field examiners. Exhibit H, a part of records of office.

A paper like it prepared under direction of commission.

Witness handed Exhibit I, similar tabulation for Shiawassee county. Exhibit H offered in evidence.

(Objection, by Mr. Blair, as incompetent, immaterial and irrelevant and based on hearsay.)

"Mr. BUTTERFIELD: This purports to be a tabulated statement prepared in the office of the tax commission from the reports of the field examiners for the county of Montcalm prepared under the direction of the commission according to his testimony."

(Objected to by Mr. Blair, as incompetent, immaterial and irrelevant and based on hearsay.)

Witness requested to read percentages from Exhibit I, first giving name of township, ward or city, then percentage as shown in report of 1901, then percentage in Exhibit I.

142 (Same objections, by Mr. Blair, as to previous report and tabulation, and that no basis for introduction of tabulation by any proof of original field notes, if they are competent.)

Percentages read from eight-column, Exhibit I:

	Exhibit F to bill, report 1901.	Exhibit I.
	%	%
Antrim	63.4	62.43
Bennington.....	78.3	67.5
Burns.....	71.8	71.86
Caledonia	65.2	72.40
Fairfield	77.3	66.16
Hazelton	94.2	91.49
Middlebury.....	78.2	89.35
New Haven.....	92.5	88.8
Owosso.....	72.3	79.34
Perry.....	60.6	60.65
Rush	60.9	63.83
Sciota	76.1	75.16
Shiawassee	71.4	73.42
Venice	79.5	76.24
Vernon	64.4	62.51
Woodhull.....	76.5	71.31
Owosso city.....	93.3	74.
Corunna city.....	87.1	71.75

Exhibit I offered in evidence.

(Same objections, by Mr. Blair, as to last exhibit.)

Exhibit J, same tabulation for Calhoun county, shown to witness with request for same comparison.

(Same objections, by Mr. Blair.)

Percentages read as follows :

	Exhibit F to bill, report 1901.	Exhibit J.
	%	%
Athens.....	75.1	82.1
Albion (whole city).....	72.4	85.3
Burlington.....	69.4	76.8
Battle Creek.....	84.1	81.2
Battle Creek city.....	70.2	71.9
Bedford.....	95.4	79.2
Clarence.....	64.2	66.3
Clarendon.....	74.9	73.2
Convis.....	86.1	81.6
Eckford.....	75.5	89.6
Enmett.....	76.9	84.1
Fredonia.....	73.2	75.3
Homer.....	59	76.4
Lee.....	59.2	66.8
Le Roy.....	64.9	77.6
Marengo.....	88.	86.6
143 Marshall.....	84.6	80.4
Newton.....	72.6	71.9
Pennfield.....	86	87.8
Sheridan.....	76.3	85.1
Tekonsha.....	70.9	69.5

Albion city by wards: 80.6, 81, 85.8, 85.6

Marshall city, by wards, 66.1, 87.1, 79.4, 71.3

Exhibit J offered in evidence

(Subject to same objection, by Mr. Blair.)

Exhibit K handed witness, being table for Clinton county and same comparison requested.

(Same objection, by Mr. Blair.)

Percentages read :

	Exhibit F to bill, report 1901.	Exhibit K.
	%	%
Bath.....	82.5	75.5
Bengal.....	69.5	73.9
Bingham.....	94.	80.3
Dallas.....	72.6	77.8
De Witt.....	83.	69.5
Eagle.....	78.8	88.
Essex.....	75.7	76.1
Greenbush.....	75.1	69.2
Lebanon.....	68.7	82.
Olive.....	76.8	66.6

Ovid	79.	83.5
Riley	82.3	75.8
Victor.....	76.1	70.
Watertown	78.	72.8
Westphalia	78.6	71.8

Exhibit K offered in evidence.

(Subject to same objection, by Mr. Blair.)

Exhibit L handed to witness, being similar table for Menominee county, same comparison asked for.

(Same objections, by Mr. Blair.)

Percentages read :

	Exhibit F to bill, report 1901.	Exhibit L.
	%	%
Cedarville	68.8	46.3
Holmes	50.9	52.6
Ingallston	57.8	55.9
Menominee	68.	69.4
Mellen	77.6	60.3
Meyer	79.6	88.9
Nadeau	47.6	42.9
Stephenson	76.5	45.
Spalding	47.8	48.8
Menominee city	55.2	94.8

144 Exhibit L offered in evidence.

(Same objections made, by Mr. Blair, as to Exhibits H, I, J and K.)

I don't know of any more tabulated statements being made of work done in 1902.

Under the act creating the commission we were required to make an annual report, and the report was made at the end of 1902, covering the work of 1901 and 1902. That report is the document known as Exhibit C in this testimony.

Q. Before having made that report, however, state whether or not your commission, the board of State tax commissioners, ascertained and determined the cash value of all the property in the State subject to ad valorem taxes for State, county, township, school and municipal purposes, and other than the property taxed under act 173 of the laws of 1901, you ascertained the true cash value of that property as a commission.

MR. BLAIR: I object to that as incompetent and as determined by the supreme court of the State, immaterial and irrelevant.

A. We ascertained it twice.

Q. I don't understand what you mean by that "twice."

A. For the purpose of finding the average rate we determined

one amount, 1715 million, and in making the average rate again, or in making the certificate for the average rate again, we took 1458 million.

Q. You didn't undertake to say when you used 1468 millions that that was the true cash value of all the property in the State which you have described?

A. No, sir.

Q. So then, as a matter of fact, you didn't undertake to determine the true cash value of the general property in the State but once?

A. Our own figures only once.

145 Q. And what amount was that?

A. 1715 millions of dollars in round numbers.

Q. And is it a fact that you yourself made the motion at the meeting of the board which resulted in that determination?

Mr. BLAIR: I object to that as being immaterial and irrelevant.

A. Yes, sir.

Q. That, I take it, was your deliberate judgment and final conclusion as to the true value, the cash value of the general properties of the State above referred to, was it?

A. I can hardly say now how I arrived at that and why I made the motion.

Q. I say you expressed it as your deliberate judgment as to the true cash value of those properties, at that time, did you not?

Mr. BLAIR: I object to that as immaterial.

A. I can hardly answer that question yes or no.

Q. I call your attention to the certificate which has been shown by the testimony to have been a true copy of the first certificate that was attached to the assessment roll of the railroad property represented on pages 69 and 70 of Exhibit C, and ask you if you signed a certificate of which that is a copy, the original certificate being Exhibit D in evidence?

A. I believe this to be a true copy of the certificate that we made as attached to our roll and I did sign the original certificate.

Q. And it met your full approval, didn't it?

Mr. BLAIR: I object to that as immaterial.

A. It did not.

Q. State whether or not it was an expression of your conclusion as a member of the State board of tax commissioners upon the subject therein referred to.

146 Mr. BLAIR: I object to that as immaterial, the paper shows for itself and he has no right to cross examine his own witness upon that subject.

A. It was the conclusion of the board as a whole.

Q. State whether or not you reported to the public and to the legislature and to the governor in the report covering the period of

1901 and 1902, being Exhibit C, that "it would be impossible to enumerate the questions raised and the matters discussed at those meetings, but with them all we emphasized the importance of listing all property subject to taxation and assessment of all at its cash value, endeavoring to point out that equal taxation and uniformity of assessment throughout the State can be accomplished in no other way; that while the old plan of assessing property at a percentage of its value prevails, and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county and the property of no two counties will be assessed by the same standard of value."

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

Q. (Continuing:) Did you so report?

A. Yes, sir.

Q. Did you also report in that report as follows: "From the time we were able to begin the collection of data until the board of equalization concluded its labors, we were almost continuously employed. The plan used in collecting information as to the value of the taxable property of the several counties of the State and the amount and kind of work done in this respect is set forth at some length in our communication to the board of equalization as is also the opinion of this commission of the law governing the said board of equalization in its work. We believe this amount is still many millions below the value of real estate and personal property of the State." Did you so report?

147 Mr. BLAIR: I object to that as incompetent and irrelevant.

A. I did.

Q. Did you also report on page 47 of that report near the bottom that: "It follows, if it be determined that all the counties are below cash value (a condition well known to exist) that such percentage or amount must be added as will bring each to this cash valuation basis, and equalization certainly will be attained." Did you so report?

Mr. BLAIR: That is objected to for the same reason.

A. That appears in the report, yes. I didn't prepare that part of it.

Q. You subscribed to it, did you not?

A. Yes sir.

Q. I take it then your subscribing to it was a—

A. On approval of it as a whole.

Mr. BLAIR: I object to that as immaterial.

Q. Some litigation arose then relative to the determination of the average rate by your board?

A. Yes, sir.

Q. Did you sign and make oath to the answer to the orders to show cause in the case of The Board of Education of the City of Detroit, relator, against The State Board of Assessors, respondents, in the supreme court of the State of Michigan?

A. I did.

Q. Did you in that answer use this language: "That as this respondent believes and charges the truth to be, the undervaluation of the property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes throughout the State was not the result of accident, inadvertence or mistakes in judgment, but that such undervaluation of such property was in a large number of municipalities of the State intentional and general, and that this practice of undervaluation has been in vogue
148 in this State for a great many years, and that if the court desires to examine the date upon which the foregoing statements are based, it will be furnished?"

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

A. That statement appears in the answer, I believe, which I subscribed and swore to.

Q. State whether or not the data which you offered then and there to furnish to the court was in part the Exhibits H, I, J, K and L, these tables.

A. Similar ones. I don't know that those had been made at that time.

Q. But you expected in that data if it was called for, to rely upon the work of the field examiners, did you not?

A. We expected to submit the data we had offered.

Q. And the data that you refer to was data derived by the field examiners and subsequently worked over and tabulated by your commission?

A. That was a part of it.

Q. That statement then, in paragraph 11, which I have just read to you from the answer in the mandamus case was in all respects true, wasn't it?

Mr. BLAIR: I object to that as immaterial and incompetent.

(Counsel presents paper to witness.)

A. That expresses the opinion of a portion of the tax commission. It is stronger than I would make it, according to my opinion of the situation.

Q. If you were to make it today?

A. If I were to make it at any time.

Q. I will ask you the question again: Whether paragraph 11 in that answer that you subscribed and swore to was at that time in all respects true?

A. Substantially true, yes, sir.

Q. In what respects was it untrue, if any?

A. Only as it might give a wrong impression by the strong
149 language used as to the number of municipalities in the
State and the proportion of them in which the under-valuation of property was by intention.

Q. You intended, however, did you not, to give a correct impression of the fact when you subscribed and swore to that document?

A. Yes, this was the combined judgment of the members of our board.

Q. The signature of each was your individual act?

A. We all signed the answer.

Q. And you all swore to it, didn't you?

A. We all swore to it, I believe.

Q. Then it was your intention, wasn't it, in signing and swearing to that answer, to represent the fact without any misrepresentation whatever?

Mr. BLAIR: I object to that. That is not in my view, proper examination in chief.

A. Why, I think I answered that question; I could subscribe to that then and the same now, but my individual judgment is that that is true in a qualified sense, but at the time I didn't think it was just exactly true, but it was the judgment of a majority of the board.

Q. Do you mean to say that you signed or swore to that document with a mental reservation which qualified its meaning in any respect?

Mr. BLAIR: I object to that as improper examination.

A. Yes, I mean that I had to do lots of things on the board that was not altogether my judgment.

A. I am not inquiring about other things, just at present; I am inquiring just on this document, and I want to be certain that we have no misunderstanding about it. Do I understand you now to say that you had a mental reservation when you signed and swore
150 to that answer which would qualify the statement contained therein?

A. I simply say that language is stronger than I would employ, because I think it gives, or it is apt to give, a wrong impression.

Q. Did you have any idea when you signed and swore to the document that it would give any wrong impression, or does your opinion that it may possibly give a wrong impression grow out of what has happened since the document was compiled?

A. We were talking about the affidavit at the time it was made and not now.

Q. At that time did you think that the document which you signed and swore to was apt to give a wrong impression?

Mr. BLAIR: I object to that.

A. There was considerable discussion at the time that affidavit was made as to that particular language, and it did not meet the approval of all of us, but it finally went in.

(Last question read.)

Mr. BLAIR: I object to that under the rulings of the supreme court, this witness being his own witness, he is not at liberty to cross examine him as he is doing at the present time.

A. I would like to have that answer stand as the answer to the question, that there was considerable discussion upon that very paragraph and that it did not meet the approval of all of us as it was drafted, but that we finally accepted it and all signed it.

Q. Then I understand you to say that after considerable discussion on the board with reference to this language of that particular paragraph which I have read, you did sign and swear to it?

A. I did sign and swear to it, yes sir.

Q. Then do you mean to say that it was in any respect a misrepresentation of what you believed to be the facts?

A. It didn't meet my approval entirely.

151 Q. And you have stated, as I understand you, the qualification that you would make, namely, that you think it might give an erroneous impression as to the relative number of assessment districts in the State in which the undervaluation had been intentional, is that correct?

A. I said that, yes.

Q. Did you appear as counsel for the respondent in the supreme court in that litigation?

A. No, sir.

Q. Did your name appear as counsel for the respondent?

A. I think it did.

Q. Did you yourself sign the return as attorney for the respondent?

A. I think so.

Q. And did you authorize your name to be used as attorney for the respondent on the brief?

A. Yes, in the making of the brief.

Q. Did you authorize your name to appear as attorney for the respondent on the brief?

Mr. BLAIR: I object to that as immaterial.

A. I don't remember about the brief.

Q. But you did appear, or your name appeared, and was signed by yourself as attorney for the respondent on the answer filed?

A. Yes, sir.

Q. Did you attempt in the presentation of that case to the supreme court to point out the qualification that you thought ought to be made on paragraph 11, in that answer?

Mr. BLAIR: I object to that as immaterial and irrelevant.

A. No, I didn't take any part in the presentation of the case.

Q. And although the answer you say, in some respects, did not express your views exactly, and you would have qualified paragraph 11 to the extent of limiting the statement as to the number that had intentionally undervalued the property, yet you didn't put 152 yourself on record in the brief as having had that view.

Mr. BLAIR: I object to that as improper examination of the witness and immaterial.

A. I never approved that method of finding the average rate and I didn't fall over myself to make it stand up in the supreme court.

Q. Do you mean to say that you didn't approve that method of determining the average rate?

A. Yes, sir.

Q. And yet you appeared as counsel for the respondent on a brief in which you contended that that was the proper method?

A. Yes, sir. My name appears in the answer and in the brief.

Q. Was it placed there without your authority?

A. No, sir.

Q. I will read from page 13 of the brief in the supreme court in the case above referred to, signed by yourself.

Mr. BLAIR: I object to reading from the paragraph as irrelevant, immaterial and incompetent.

(Continuing:) "It may also be said that it is common knowledge, and no one pretends otherwise, that the properties of the State are systematically, habitually, assessed less than value, various reasons being assigned therefor for which both assessor and taxpayer are to blame." Did you know that that statement was contained in the brief over your signature?

A. I don't recall when I first saw the brief. Mr. Freeman prepared it.

Q. But did you see it before it was filed?

A. I don't remember when I first saw the brief.

Q. You don't remember that you saw it at all before it was filed?

A. I can't recall now.

Q. Did you file any supplemental brief in which you expressed your—

A. I think the supplemental brief does not have my name.

153 Q. Having learned—

A. I think I never saw the supplemental brief before it was filed, I am not clear about that, I think it hasn't my name.

Q. Having learned at any time before the case was finally disposed of that the brief to which you have referred had been filed wherein your name appears, did you file any supplemental brief to express to the supreme court your desire to qualify your sworn answer?

Mr. BLAIR: This is all taken subject to my objection.

A. I never presented anything to the supreme court on this matter at all except in connection with Mr. Freeman, as you have stated here.

Q. I take it from what you have now said that at the time you signed and swore to that answer, and up to the time of the final submission of the case to the supreme court, it had not occurred to you that there was any necessity of qualifying what you had said in any return, had it?

A. I didn't care to qualify it, we had decided on it as a board and I was willing to stand by it.

Q. You are willing to stand by it now are you not?

A. I tell you the circumstances under which it was made and I will let it go at that.

Q. You have no desire now to withdraw from it?

A. I never liked that; I never agreed with the other members—some of the other members of the board, as to the method of finding the average rate, I never believed it could stand up and don't agree with them now, but I did join with them in making that affidavit—that is to the average rate, I joined with them in the defense of that suit to make it stand up and I joined with Mr. Freeman in the brief, but I never have thought—and I never have expected it was necessary to explain my individual opinion or action, but
154 I give it now; I never approved of it and I never thought it was right.

Q. But you did believe that the 1715 millions was a fair cash valuation of the general property of the State which was to be considered in computing the average rate?

A. I don't remember what my individual opinion was at that time; we agreed upon that; and as you have referred to it, I made the motion of 1715 millions, whether it was to keep a large or smaller amount from being adopted, whether it seemed the one would be that I thought it was the best, I don't remember.

Q. You finally joined in the action?

A. We finally joined in the action of 1715 millions.

Cross-examination by Mr. TOWNSEND:

The duty of the field men in 1901 was to make as good examinations as possible within the time, to gather information for us to make report to the State board of equalization of the value of real estate. He was to do more in 1902 than in 1901, take more time to verify considerations and more time in examining the property and learning conditions and ascertaining values.

Knew nothing of what he was doing except as obtained from his report. After reports came to the office they were tabulated by the employees, under direction of the secretary and chief clerk, but verified none of the work so as to determine whether it had been done correctly. Relied on reports of field men;

And in making recommendations to the State board of equalization we thought field men's reports reasonably reliable; thought the work had been fairly well done and that the men were good men. The work done in 1902 differed, results were different in many cases than the result obtained in 1901. In the report to the
155 State board of equalization, we followed the report of the field men in nearly all cases. There were some counties where the properties were not examined by field men and we submitted other data to the State board. Notably, Houghton, and some of the mining counties, and in Kent county and Detroit we relied upon correspondence for some of our information. Did not pay attention to sending out men who were familiar with the locality to which they were going, but sent the men that we thought best fitted for the kind of work.

In all cases sent non-residents of the locality.

In Saginaw county the review was of the townships alone, because our previous examination of the city of Saginaw convinced us that it was near enough right, and we were satisfied that the part of the county not examined was at cash value in the main. In the city of Grand Rapids a great deal had been done before, an immense raise had been made in Grand Rapids. And we thought enough had been done there, that we would devote ourselves to the townships, and that would cover the county as a whole sufficiently.

In Charlevoix county there was a general review of a part of the townships and of the city of Charlevoix, the rest of it we didn't have time to cover, we took only the worst of it.

There was a general review in the city of Mackinac Island. We were not prepared for the rest of the county.

There was a general review in the city of Holland that affected all the property, we hadn't made an examination of the rest of the county. There were different conditions in different counties. We sent field men who lived in the city into the country districts, and those who lived in the country into cities.

Referring to Exhibit J, the headings of the columns read :

- (1.) Name of assessment district ;
- (2.) Number of pieces examined ;
- (3.) Percentage of real estate examined ;
- 156 (4.) Percentage of assessed to actual value, 1902 ;
- (5.) Actual value of real estate, 1902 ;
- (6.) Percentage of raise required in 1903.

The number 34, under column "Number of pieces," opposite Albion, indicates number of pieces examined by examiner, but does not show number of pieces in Albion, all told, and he does not know the number. The percentage of real estate examined is 15.4 of the entire property. Don't know whether that percentage is of the number of pieces or of the entire value of the property. In the next column 85.3 is the percentage which the assessed valuation of the pieces bears to the actual value, in the opinion of the examiner ; that is that the 34 pieces were valued at 85.3 as determined by the

examiner. To get at the actual value the field man forms his opinion of the values of the property, sees what it is assessed at, compares the two, and gets the percentage, determining the full value of each piece he has examined. If he has examined 34 pieces, in averaging them they are assessed 85.3 of what he thinks they are worth.

The 17.2 % in the last column is the percentage necessary to bring the assessed value to \$870,000. I think that this sheet was used when the roll of 1903 was inspected and that the 6.1 % in pencil on the right, indicates that he has come within 6.1 % of doing what he was requested to do, namely, raise 17.2 %.

In addition to using a memorandum of sales, he examines, for instance, in the township of Albion, 30 pieces of property, finds out what he thinks the value is by inquiring of neighbors or looking at the assessment roll or from the county treasurer, puts the evidence all together and finds out what he thinks the value of the property is. Don't know whether the 34 pieces examined were all the pieces sold or not.

The calculation is done here in the office and the percentage computed here in almost every case.

157 Do not, from this examination alone, assume that all of the property in the township is 17.2% below and raise it horizontally 17.2% and do not rely on field men altogether, but sometimes have a meeting with the supervisors, showing them the field work, and asking them why they should not assess on the basis of our examinations, and our knowledge, as gained by the field work, as qualified by what supervisors say.

If an individual supervisor can give no reason why those changes should not be made, or if he admits their correctness, we then ask him to come to those figures, but if he can satisfy us that our examinations are wrong, and the extent to which they are wrong, we modify our opinion as to what is required of him. Quite often he changes our opinion to some extent.

The 1702 millions reported to State board of equalization contains figures for some counties that are not our recommendation; aside from that we took the field notes and worked on the percentage plan alone to arrive at the values of the several counties; that is, if a man reported 34 pieces in one township and he found those 34 pieces should properly be raised 17.2 per cent. to put them to cash value, we would apply the same per cent. to all the property in that district and make a horizontal raise.

After the report to the State board we made special and general examinations as heretofore detailed, and found that the values arrived at on these examinations differed considerably in some cases from the computations made in reaching the 1702 millions. The percentage plan was employed in 1902 the same as in 1901. The difference being the extent of the examination, but the finding of the per cent. and manner of using it was practically the same.

Where the percentage is different, we accepted the more careful examination and the percentage of the later year.

If the field man had gone into the township of Albion and examined 15 pieces of land and determined the percentage, and
158 then went in again and examined 30 pieces of land and determined the percentage in the same way, the rate would have been different in each case.

It might have been different if 15 pieces had been examined in one case and 16 in another. We took representative pieces at random in 1901, and we did not examine as many pieces as we did in 1902, and those examinations in many cases result in different percentages. Don't think it was the rule that the more pieces examined the more favorable it was to the assessor. The percentages vary both ways; which way most I cannot tell. The result of those townships investigated more carefully in 1902, in those counties that had been reported in 1901, showed a marked increase favorable to the assessor.

In arriving at the value of property to be used as a divisor in determining the average rate, my recollection is that we took our report to the State board of equalization as a basis, and that total was 1702 million, in which we were represented as recommending 180 millions for Houghton—which we did not recommend—and in one or two other counties figures were put in to make up that 1702 millions which were not our figures, but were above our opinion of values. We thought Houghton county was too high, because in valuing it we had considered the value of the mining stock and there had been a great decline in mining stocks, which showed that Houghton county was not worth as much as supposed to be, and should not be placed at a figure indicated by market quotations. We allowed something for Houghton and other counties of that kind; then compared in a general way the values of counties reported to the State board of equalization and the value of those counties as we had determined them by our later and fuller examinations, and found that upon our fuller and later examinations in 1902 in counties where we made general reviews our value did not come up to our figures of those counties in 1901.

159 There was a marked difference in some and not much in others. We made a guess at what the rest of the counties would show by the same kind of work, with the result that we reduced materially that 1702 millions of dollars. Then we made a guess as to the amount of personal property in the State that was not assessed, and the two together were somewhere around 1715 millions. Can't tell how much personal property was put in. We have worked for a couple of years digging out personal property and had some information of the most general kind, as to the way the personal property was being assessed but had nothing definite to go by. I objected to the whole plan of doing that, my objection was based on the idea that it was a guess.

And that our action would be a guess and indefinite; that our action was controlled by the statute and that we could not use our

judgment, but we were held to the assessed value. When we were trying to find out that amount, we were guessing too much and hadn't data enough.

Q. I want to ask you if that result of 1715 millions of dollars was the result of a compromise between the members of the board as to the value that should be placed upon property outside of what was covered by act No. 173?

A. Yes, sir. We had all kinds of views as to what that total figure should be; we were above it and below it.

Q. Were any members of your board claiming at that time that if this sum could be added in fixing that rate that there would be no objection presented on the part of the railroad companies to paying their taxes and that probably the last objection would be removed?

A. Well, the question of the effect upon this matter was spoken of, that if this allowance was made it would take from the railroad their only weapon that they had to fight their assessments; that was expressed as an opinion of the effect of that proceeding on our part.

160 Q. Did you know how that 296 millions of dollars that has been spoken of once by Mr. Butterfield, I don't remember in which connection that 297 millions was mentioned, but I think it is mentioned in the bill, how was that obtained, where did that come from?

A. Is that the difference between the 1715 millions and the assessment of the State?

Q. I don't know what it is.

A. I have explained how that was. It is obtained by subtracting the assessment of the State from the amount we found the State to be. We didn't ascertain and we didn't fix the amount which should be added; we fixed the total amount and the subtraction produces that amount.

Q. Now I want to ask you if that amount that was determined by the board was a guess, compromise, rather than an amount that was determined by anybody as an exact amount of the value of the property outside of act No. 173?

A. I hardly know what a guess compromise is. It was guessing and compromising, both.

Q. You were all guessing at it. No man had the facts there upon which to base his judgment, but said "I make that so much from these facts." Was there any man that had a computation made there of things that he knew actually existed?

A. We had to depend on our judgment of what was going on in the State, the way property was being assessed.

Q. Each one had to do that?

A. Each one had his own way of doing, I think each one had his own amount and finally we agreed upon this amount, but the general plan that I speak of was employed to a considerable extent, starting from the report to the State board of equalization and striking off a large amount for Houghton county and other mining

counties, striking out where our examinations of 1902 did not come up to the examination of 1901, and in a general way after 161 they accepted our values as found in 1901.

If the field men had examined one fewer or one more piece, the result might have been different, but not necessarily so, as the pieces examined might have been at exactly the same percentage. It would be very apt to change the percentage up or down.

Do not know why the percentage for Menominee city reported to State board of equalization 1901, was 55.2 %, while in Exhibit L it was 94.8 %, there might be a difference in the supervisors' assessment or there might be a difference in the judgment of the field men.

There is a difference in the judgment of field men, and if two men were sent through the same district, think would be very apt to differ, and think might differ widely.

The answer in the Detroit school board case, the first draft, was from the attorney general's office, but it was changed in some particulars in our office, principally by Mr. Freeman, if I recollect. We discussed several features of that answer all together before we signed the answer and there was some discussion along the old lines as to whether we had proceeded upon the proper lines or whether we should have adopted the plan that the supreme court afterwards told us we should adopt, and the question arose of what we ought to do in this suit that was up, and finally we decided we would have to make the best hustle we could to make our action stand, whether it was right or wrong. I never thought our action was right, but I was willing to give it the best show that we could make and the best showing we could in the supreme court.

When general reviews were held, the information was gotten—first, from the registers' office, then from the field men, next by a conference with the supervisor, sometimes before he had made his assessment and sometimes after. Sometimes the report of 162 the field men was modified by our talk with the supervisors and from things that we had learned and we would not follow the advice of the field men upon that case.

Q. Now in talking with the supervisors over the State on these and other occasions, I suppose you found men sometimes, supervisors who admitted they were assessing under valuation?

A. I have met such.

Q. What proportion were those men who admitted they were, of the supervisors with whom you talked upon the subject, large or small?

A. A small proportion of the whole.

Q. What proportion of the whole supervisors of the State?

A. Still smaller of course, because we talked with a very small number of the entire assessing body of the State.

Q. Did you in any place where you have held your examinations, discover any systematic or concerted action on the part of the

supervisors, to beat the railroad companies in reducing their assessments?

A. No.

Q. Did they express the idea that they wanted to keep the assessments down so that the railroads should have more of the burden of the taxes?

A. I don't recall ever hearing that said by a supervisor.

Q. Did you in all your experience ever find two supervisors who were concerting or acting in concert upon some line to accomplish the same purpose jointly?

A. I found very often one supervisor watching another to see what kind of assessing his neighbor was doing.

Q. He was afraid his neighbor would get the advantage of him?

A. Yes, sir.

Q. But they were not working together to accomplish this purpose?

A. Well, I don't know that they were.

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It is usual to take the minutes of transfers from the books of the register in the register of deeds' office, this was given to the field men who tried to verify the considerations and in different ways ascertain and form an opinion of the value of the property, they go to one or the other of the parties to the sale, where they can to ascertain if the true consideration is stated in the deed, where they can't do that, or they are not reliable, they talk with supervisors or other well informed persons of the community to verify the consideration in that way, then by all means at hand gain an opinion of the value of a piece of property sold, independent of the consideration, and then at least one piece, as a rule, is examined in each section of land in a township, especially if a sale has not taken place on that section, and if, in the opinion of the examiner, he has learned enough about the piece by the piece sold, he does not examine another piece. By enquiring of parties he tries to learn conditions and sizing up the situation he forms an opinion upon the values of land or many pieces of land in the township.

It frequently happens that a man from Detroit or Grand Rapids goes into Calhoun or some other county, makes up his judgment as to the value of that property and reports it to the board of tax commissioners, and they rely upon it. Frequently the supervisor who lives in that country has a very different judgment from that of the field man, and that judgment modifies our opinions sometimes of the report of the examiner. The board of tax commissioners determines the value of the property with all the information that is brought to us to form an opinion, and we rarely see the property.

I always see every supervisor or every supervisor sees the work of the examiner and expresses an opinion upon it. We have no way of verifying the work of the supervisor except by the report of the field men and we take his statement and the report of the

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field man and from this make our assessment.

Attention of witness called to field man's report for Menom-

inee county ; where the percentage of value was 55.2 % as reported to the State board of equalization in 1901, the report of the field man for 1902 shows percentage at 94.8 and indicates that he has examined 2.1 % of the property of the entire city. It depends somewhat upon the man and the pieces as to whether a man could examine 2.1 % of the property in Menominee city and determine the value of the city. The field man is usually a stranger.

Two and one-tenth per cent. would amount up in a large roll to quite a large number of pieces. It would be two in a hundred, and if there were several thousand it would be a large number of pieces. The examination of \$61,000 out of three million dollars worth of property, as appears to have been examined was a very small part of the property, and an examination of that kind would be quite unreliable. The examination of three pieces in any township, as was done in Meyer township, Menominee county, would not give the examiner reliable information.

165 A. F. FREEMAN, on the part of complainant, testified as follows:

Direct examination by Mr. BUTTERFIELD:

I reside in Manchester, Washtenaw county, Michigan ; am 45 years of age. I am a member of the board of State tax commissioners of this State, and have been since July, 1899, the time the commission was organized. I am a lawyer by profession.

The commission in 1899 consisted of Milo D. Campbell, of Coldwater ; Robert Oakman, of Detroit, and myself.

Q. What work did the commission occupy itself with in 1899 with reference to the ascertainment of the percentage of assessed to true cash value of the general properties of the State subject to ad valorem taxation, if any ?

A. Well, before it was undertaken to arrive at percentages, the commission, or the members of it, traveled the State over quite extensively, in the fall of the year in the upper peninsula and then meeting with as many supervisors as we were able to while they were in session in October, 1899, and then following immediately with this work of which I think you speak, the collection of certain data to learn how the properties of the State were being sold, and then to learn how those same properties were being assessed, and with that in view the members of the commission prepared blanks suitable for obtaining the transfers of all the real estate or property that occurred between the year ending June 30, 1899, for the year previous to that, whereby the registers of deeds took off the transfers, that appeared from their records within that period, and there was a blank upon that blank whereby they could swear that they had collected the data that we asked for, and then that blank was to be turned over to the county treasurer for him to take from the assessment rolls which were in his office the assessment of those

identical properties which the registers of deeds had placed upon that blank; that was the first real step that was taken by the commission.

166 Q. What was done with those blanks after they were filled out?

A. They were returned to the office gradually, and the commission from those blanks eliminated such that appeared to be foreclosures or sheriff's sales, or such as would be regarded as forced sales under the law, because the definition of cash value eliminates that kind of a sale, and the percentages were figured at the office by the assistants under the direction of the secretary and by Mr. Gullifer, who we regarded at that time as the chief clerk, although there was no such office at that time, he was a well informed man and he was by common consent regarded as chief clerk of the office.

Q. Was that material subsequently tabulated or printed?

A. Yes, it was.

Q. I hand you Exhibit A and ask you if that is the printed report of that information?

A. Well, I think it was one of them, yes. * * *

In the year 1899, as soon as these sales were compiled, we proceeded to put them into statistical form of Exhibit A. One of those was sent to each assessing officer.

Mr. BLAIR: I object to this line of testimony on the ground that it is immaterial and irrelevant as well as largely incompetent and hearsay.

In the fall of 1899 Mr. Campbell and I had been out and visited as many supervisors as we were able to during the period they were in session; Mr. Oakman did not visit as many as we did; I covered all the ground I could within the time, and so did Mr. Campbell; as I remember it, I covered 12 or 15 counties, and he the same, and Mr. Oakman covered some, I don't remember just how many during the assessment period, going out and addressing them and talking with them; one of the duties of the office was to visit each county in the State once each year for the purposes of learning conditions existing, and I think the members of the com-

167 mission—I know I did—gave a lot of time to that class of work, going all over the State; we didn't succeed, however, in fulfilling that duty, we could not do it in a year and visit every county in the State, and make a visit that is of any importance I mean, to put any time in.

Those visits continued during the year 1900. I was at it almost continually, myself and Mr. Campbell. In the fall of 1899 we called on them when they were in session, met them as a body and addressed them for half an hour sometimes, and sometimes longer. There wasn't as much of that work in 1900 in the calling them together; in the subsequent years after that I was around among them a great deal, and so was Mr. Campbell.

Q. In the early part of 1900 your visits were largely to the individual supervisors?

A. In the fall of that year we were among them.

Q. I am speaking now before the assessment rolls were completed for the year 1900.

A. Yes, sir.

Q. Will you state how many, according to your best recollection of the supervisors of the State, you talked with personally between the time the commission was organized and the month of June, 1900?

A. That would be very difficult for me.

Q. I suppose you kept no record?

A. None whatever.

Q. Give your best estimate of the number that you talked with.

A. Well, in the fall of 1899, as I say, I covered between 12 and 15 counties personally, just as fast as I could get from one county to another while they were in session, and they are usually in session different periods ranging from ten days to two weeks and sometimes longer at that time, and then, as I say, I was travelling the State over and talking with assessing officers; I believe, however, in the fall of 1899 I talked with all the assessing officers in the upper peninsula; we took especially one or two counties like Luce, 168 Schoolcraft and Aiger, and some of the assessing officers of the others, although I was in each of the other counties and talked to many of the supervisors.

Q. Were all the counties that you visited, from 12 to 15, in the upper peninsula?

A. No, sir; those 12 or 15 were in the lower peninsula.

Q. State about how many assessing officers there are in each county on an average.

A. That varies; you might say, there is a county of twenty townships, that is quite a common county, and of course you will find a city possibly with three assessing officers in and sometimes one, and sometimes you will find cities like Adrian and Jackson which are under the old supervisor system with 7 or 8 supervisors.

Q. As many supervisors as wards?

A. Yes, sir; so that you could not tell.

Q. In those meetings with the supervisors in the fall of 1899 and in the spring of 1900, was their attention called to the material which had been compiled by the commission and published in Exhibit A?

A. Well, I think everybody in the State knew of them, because they were having some trouble—

Q. Was the attention of the supervisors called to it specifically at those meetings?

A. Well, it was not in 1899. We had not collected it yet, we were collecting it during the winter and spring time before the assessment of 1900, then their attention was called to it.

Exhibit A was prepared just before the assessment period of 1900 along about that time.

Q. What information, if any, did you get when you visited those boards of supervisors in 1899, as to the question whether the property in their various districts was being assessed at its true cash value?

169 A. Well, the first information that came to me was on the tour that the commission took of the upper peninsula, which was in September, as I recall it now, of 1899, when we went directly to the supervisor, got his roll and had a stenographer with us and collected a lot of data, he would take it down to preserve it for our use, and we had personal interviews with the supervisors and found the amount of the assessment of the different properties, and I refer now specially to the assessments of the mining property in the upper peninsula, and then talked with them upon the assessment of their other properties.

Q. Did they give you information as to whether their property in their districts was being assessed at true cash value or what they considered some percentage of its cash value, less than 100%?

Mr. BLAIR: I object to that as immaterial.

A. Yes, sir; I talked that matter everywhere; that was the purpose of our visit, to learn those things.

Q. What did they say?

A. Well, they admitted in a large number of instances they were not assessing the properties at value. I remember distinctly of that statement of all the boards of supervisors whom we had in session; at Houghton county in their expressions they all admitted the fact that after they had found the value as they regarded it of the mines, they then assessed them at sixty per cent; and we asked them if they treated other property upon a like basis, and they said they did, and they had no special favor to offer to the one class of property, and other supervisors would say like this.

Mr. BLAIR: I object to this testimony which he is giving as to the statements made by these supervisors in the fall of 1899 as being hearsay, incompetent and immaterial.

(Continuing:) "No, we are not assessing at value; how can we if the others do not?" Well, the reply would be, "You should assess at value, and then if some are not they should be brought to
170 that standard"—that is the only reply, although no per cents were expressed as I know of.

Q. What was the fact as to the counties in the lower peninsula that you visited, with reference to the statements of the supervisors as to whether they were assessing property at what they believed to be its true value or not—I am speaking of the meetings you have referred to in the year 1899 when you visited 12 or 15 counties.

Mr. BLAIR: I object to it as incompetent, irrelevant and immaterial.

A. You mean at the time the supervisors were in session?

Q. Yes, sir.

A. Well, at those meetings the new law was talked with them and the importance of obeying it, and the only way to have equal taxation would be to have all the properties assessed at one standard, and that standard to be the cash value standard, it was a long talk that we gave them along those lines, I do not care to rehearse my talks to them to you. When we would get through with those kind of talks with them we had interviews, and a lot of questions would be asked by them, how to assess this and how to assess that kind of property, and we had a general heart to heart talk over the conditions, and it was very frequent upon my part to ask them if they were assessing their properties at its full cash value, and I have heard many of them say that they were not and there wasn't anybody else doing it, but I say also in addition that no per cents were ever expressed to me in the fall of 1899. I cannot recall of them.

Q. State whether or not the admission on the part of the supervisors and assessing officers in the year 1899 that they were not assessing at true cash value was general or rare.

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

A. I have heard it so many times.

Q. Was it a common thing or an uncommon thing—did a majority of them say it or was it only a small minority?

171 Mr. BLAIR: I object to that. It is a mere conclusion. He should state the individuals who did make such statements and then the court can draw its own conclusions.

A. It is hard for me to say as to majorities, I heard that expressed frequently. As to whether it was a majority or not I could not say. I did go into some counties where they appeared to be very fair in assessing, and some would claim that they were assessing at value.

Q. Did you communicate the information to the other members of the commission?

A. Yes sir, and the other members would talk about the result of their interviews that they had in the State.

Q. What was the report that was made to the board from the other commissioners, Messrs. Campbell and Oakman—did their experience correspond with yours?

A. Yes sir. * * *

Mr. BLAIR: I object to it as incompetent, immaterial, irrelevant, leading and an improper examination.

A. (Continuing:) It was similar.

One of the first features of the work between June and October, 1900, was an assessment attempted at Grand Rapids. This related mainly to personal property. Out of this grew the test of the constitutionality of the law, the assessing officers declining to give us

the rolls. The decision was rendered before the second of October, 1900. The outcome of that decision was to the effect that we had a right to the rolls, and then we placed our values upon the properties we had reviewed, and we began to have other hearings in the State and we proceeded to have them until the October time or thereabouts, when our time closed for holding reviews.

Sometimes one, sometimes two and sometimes three members attended a review, there was no set practice. There were no general reviews in 1900, except possibly in Mackinac.

172 The special reviews related to property of individuals named in notice, and were not reviews of all the property in a given assessment district.

There was no case in 1900 with the possible exception of Mackinaw where the board of tax commissioners changed the assessment roll of an entire assessing district. For the first two months of 1901 the commission practically did nothing.

There was a change in the law, or an amendment to the law, rather, making five members of this commission. That was passed at the session of the legislature of 1901, whereby Mr. Sayre and Mr. Pope of the upper peninsula were named and confirmed. After the adjournment of the legislature Mr. Pope declined to act, as I understood it, and then Manville Jenks, of Ishpeming was appointed after the adjournment of the legislature.

The work proceeded after the first of March by Mr. McLaughlin, Mr. Oakman and myself. Mr. Oakman continued to occupy the office until some time in May, as I remember it, until the question between him and Mr. Dust was settled in the supreme court, as to whether Mr. Oakman had been confirmed. It was held, as I remember it, that Mr. Oakman was not confirmed; then Mr. Dust became an active member. Mr. McLaughlin had been appointed in the spring of 1901. He and I with Mr. Oakman consulting, began to block out the work immediately after the first of March, first as to our duties with the assessing officers previous to the assessment time, we began to collect the data respecting all of the mortgages of the State for instance, which was a great job, and send them out, all of the mortgages that were assessable according to records.

We discovered what mortgages were on record in the State of Michigan that we found in a given county, and if the mortgage was held by a resident of another county, we sent the information to the place of his residence. The first work of the field men begun after the first of June. Mr. McLaughlin and I took an active part,

173 what little we could do, during the month of March, in collecting the data for the use of the assessing officers.

Then as soon as April opened up and the spring elections had taken place, Mr. McLaughlin and I went out all over this State, visiting as many counties as we could during the assessment period, meeting as many supervisors as we could, getting them together in a body and addressing them and having the kind of a talk that I have spoken of that occurred in the fall of 1899.

Q. During those meetings of the kind you have described in 1901, state whether the supervisors whom you visited stated to you whether they were assessing property in their respective districts at its true cash value or at something less.

Mr. BLAIR: We object to that the same as before.

A. Some did and some did not.

Q. Was it common or uncommon for a statement of that kind to be made?

A. Well it was common for the statement to be made, but I cannot tell to what extent. It was a frequent affair, that is all.

Mr. BLAIR: I also object to the leading character of the questions.

Mr. McLaughlin and I and Mr. Oakman took up the consideration of the approaching State board of equalization meeting, to occur in August, 1901, and discussed our duty as advisers of that board, and began to pick field men to obtain such information as existed. This was before the first of June, 1901.

The volume of men was between 50 and 55. We began with a few and increased as we could find the men. Some had different duties than others, but in the main they were to take the sales out of the previous work, represented by Exhibit A and go out and verify the considerations named, and where there were not sufficient sales, to take what we call pickups, so that they would have
174 a sufficient number to base a judgment upon.

The results were reported to us from time to time for our use in reporting to the State board of equalization. Did not quite cover the whole State, a few counties they were directed not to have anything to do with. In Houghton and Gogebic they were instructed not to have anything to do with mines. Keweenaw, Ontonagon and Roscommon were not examined. Marquette only in a general way, exclusive of mines.

The result of this labor was tabulated and submitted to the State board of equalization.

Does not understand Exhibit F as some of the other members have explained it. My understanding is that this is the return of the supervisors of their conditions, and it must be that the State board of equalization placed in there the percentages which were arrived at and in the sheets we sent up to them, which would be the second column. That represents the tax commissioners' percentages of assessed to true value, providing it is printed correctly, if we leave out the counties just enumerated.

Q. I show you Exhibit F attached to the bill of complaint in this case and ask you if that is a copy, or I ask you if that portion of it appearing on pages 208 and 209 and following is a report of that work.

A. Well, I don't quite understand that as some of the other members have explained it, I may be wrong about it and they may be right about it; my understanding of that is, that this is the return

of the supervisors of the State of their condition, and it must be that the State board of equalization placed in there the percentages that were arrived at, and in the sheets we sent up to them, which would be the second column over here.

Q. Then the second column entitled "Tax commission percentages" represents what the tax commission had found to be the percentage of assessed to true cash value in the various townships referred to?

A. Providing it is printed correctly, and provided we leave out those counties I have spoken of, of Houghton and so forth. We never reported the valuation of any such thing as that.

Q. Assuming that there has been no typographical errors those percentages were submitted by your board to the State board of equalization.

A. I believe them to be true.

Q. Those percentages purport to be the percentage of assessed cash value in each of the townships referred to with the exceptions you have named?

A. Yes sir.

Q. And those percentages as ascertained by your commission were based upon the work of those 55 men as you have described it, am I right?

A. Yes sir, on the reports that they would make to us largely. Now, I only exclude out of that the city of Detroit, there was a little bit different work done there—and the city of Grand Rapids—by the commission, although we did send to the city of Grand Rapids and Detroit a number of assessing officers of the State whom we had great confidence in to learn conditions and report to us.

Mr. BUTTERFIELD: I offer in evidence Exhibit F attached to the bill of complaint.

Mr. BLAIR: I object to that as immaterial, incompetent and irrelevant.

I am in doubt whether Exhibit F is the report of the board of supervisors to the State board of equalization with the second column that we were speaking of added, or whether we reported that. There is a certificate to it by the board of supervisors, which makes me think that it was a table sent by them and our column put in. I am right about it and the other members of the board are mistaken. Those percentages are the report of the tax commission.

The column entitled "Percentages" contains the percentages which were determined and submitted by the tax commission to the State board of equalization with the exceptions I named a few minutes ago, provided it is printed correctly.

Mr. BUTTERFIELD: We offer in evidence Exhibit F for the purpose of showing the percentages which the witness has testified to.

Mr. BLAIR: We object to it because it is not the original report

itself which should be accessible, and it is otherwise incompetent, immaterial and irrelevant.

Mr. BUTTERFIELD: I also renew the offer of Exhibit A.

Mr. BLAIR: I object to that as incompetent, irrelevant and immaterial.

(Examination of this witness suspended for the present.)

177 F. O. GULLIFER, secretary State board of tax commissioners and assessors, sworn on behalf of complainant testified as follows:

Direct examination by Mr. BUTTERFIELD:

(Witness handed book "Report to State board of equalization" marked Exhibit M, says:) This book contains copy of report made to State board of equalization in 1901 by State board of tax commissioners. Does not know whether percentages in book in column headed "Per cent. assessed to actual value" are same as percentages in column entitled "Tax commission percentage" in Exhibit F to bill of complaint.

(Objection by Mr. Blair as immaterial and incompetent.)

Cross-examination by Mr. BLAIR:

The percentages were figured by clerks in the office. I verified computations largely myself. Think we got the percentages from the reports made by field men who made the examinations. The field men were instructed to report according to same method of ascertainment and reports were the same.

The field men figured the reports themselves in very few cases, and where they did, they were re-figured in the office. There were some cases where there were large plants included in the reports of the men, and I struck them out in arriving at the result.

I got authority from members of the commission to exercise judgment as to what should be included and what eliminated. There were very few reports of sales under \$500, and I do not think they were included in making up the computation. There might be a very few cases where there were small sales in.

If we had a considerable number of transfers in one county, and a small number in another, that did not affect or make any
178 difference in the method of computation, and might not affect the valuation of the county. We had a general plan for doing the work, which took into consideration that the accuracy of the figures increased with the greater number of valuations of property, and decreased with the lesser, but if there were 300 transfers in one, and 100 in another, no distinction would be made. We would fix a value on one as high as on the other, if the percentages were the same. Whether 300 transfers in one county would produce more correct results than 100 in another, would depend upon the entire value of the county and its size, meaning whether the 100

represented a larger proportion of the value, if they represented approximately proportionate values, I do not see where it made much difference. We would be entirely accurate if we made a re-assessment of every piece of property in the county, and whenever you get less than that total number, the figures are less likely to be accurate.

(Recalled.)

(Witness handed Exhibit M and states:) The words and figures written on each page in pen and ink are memoranda to show what the different counties were equalized at by the board of equalization in 1901, and also what the same county was assessed at in 1902, by the assessing officers.

(Mr. Blair objects to assessments of 1903 going in as evidence.)

(Witness evidently handed Exhibit F to the bill:) The difference between the two reports is that in the published statement (Exhibit F) they put down the number of acres in a county, then the assessed value of the real estate and personal property separate, and we have simply (Exhibit M) put down the assessed valuation for real estate and the value of the personal property as equalized. The original report to the State board did not have the same columns as Exhibit

F; the last column of Exhibit F is not a part of our report. 179 There is in Exhibit F a column corresponding to every column in the original report to the State board of equalization, but put in in a different way.

I presume Exhibit F was made up from reports we gave the board of equalization. Exhibit M was compiled in our office under my supervision.

I don't know that they were prepared the same as Exhibits H, I, J, K and L, as there were two or three different ways of getting up these reports.

(Witness shown a paper and says:) That is the original compilation of the report for Calhoun county. (Paper then marked as Exhibit N.) These two reports are not the same, in compiling them we first compile the reports of the property that has been sold, then compile a report of the pickups. We put the two together and make one general report, which includes pickups, and property sold, and that makes the difference between these different sheets. The figures to the right on Exhibit A is the percentage that must be added to the assessed value to bring it up to what we consider cash value.

(Recalled.)

Direct examination by Mr. ANGELL:

(Witness shown Exhibit C.) (Mr. TOWNSEND: We make the usual objection to Exhibit C.) That report was made up from copy sent to the printer, but is the original report. The manuscript from which this was made up was not sent as an original document to

the governor, but was treated as printer's copy. Exhibit C is one of the whole edition of original documents.

It was printed by the State printer. The report itself is an original document, the statistical tables set up in the latter part of the book are copies of tables in the office.

Mr. ANGELL: I now offer Exhibit C in evidence to save any question.

(Mr. TOWNSEND: We object to it.)

180 Cross-examination by Mr. TOWNSEND:

This report was made from statistics, and articles by the different commissioners and articles by employees of the commission.

The statistics and articles are preserved among the records I think. I don't call the printer's copy the original report. The commissioners did not sign the report in print, they signed the original, I mean to say that this printed copy (Exhibit C) is an original. There are 4000 of them—not copies, but facsimiles.

The Exhibit C was not signed by the board. It was all printed and nothing written in. The board did not see the statistical tables, just as they went to the State printer, but had seen the tables and approved putting them in.

This book was made up from the manuscript reports, statistics, etc. on file in the office.

Redirect examination:

I think that about 79 million dollars has been added by the State board of tax commissioners to the appraised value of the State during the current year.

Mr. TOWNSEND: I object to that.

The total of the figures have not yet come before us.

(Mr. TOWNSEND: I also object to that as incompetent and immaterial, being at a subsequent period to the year 1902.)

Our reports show that the assessed value of the real estate as fixed this year exceeds that of last year by \$31,720,254, that is the total increase in real estate. The increase in personal property is \$20,147,002, so there was \$51,000,000 added by the assessing officers and \$71,000,000 added by the State board, making about 130 millions.

Recross-examination:

181 The figures given came from the different assessing officers of the State. I didn't compile nor take them off myself.

Direct:

Witness' attention called to table No. 10 appearing in Exhibit C. That table contains all the items that went into the dividend and

divisor in computation of the last average rate, and all of the items were made use of in the dividend and divisor except the last percentage column.

Cross-examination by Mr. TOWNSEND :

Any drain tax spread at large which was reported to us was included, but no others were.

I was secretary of the tax commission for two years and 5 months. I have been with the members of the tax commission when they made reviews, both in 1901 and in 1902, and am familiar with the method of obtaining values. Understand the method which the tax commission has used in getting values of property in the various assessing districts. In my opinion it comes as near to obtaining the actual conditions as can be done without a complete examination of all the assessments of property.

(Objected to by Mr. Angell as incompetent and irrelevant.)

The absolute value of the property in an assessment district can not be determined by examination of any percentage less than the whole, but I think that the men going through the assessment districts and working under the instructions of the commission could come close to the percentage of assessed to actual value. They might come further from or nearer to the actual facts by examining more. No man or number of men can go into a township where there are varied industries and arrive at the actual value without examining all the property.

182 The field men have been instructed to get the percentage under ordinary conditions, and where they find an assessment entirely out of the ordinary, it was not taken into consideration in making the average. I never attended a general review conducted as they conducted general reviews this year. The only ones I ever attended were at Mackinac Island and St. Ignace, where they examined every piece of property in the two cities.

As the reports of the field men came in they were turned over to the clerks in the other department to be footed, and tabulated.

(Under objection by Mr. Angell as not the best evidence.)

The field reports show that the properties are not equally assessed. They may find one piece of property assessed at 80%, another at 60%, another 50%, and from this they arrive at a percentage of the whole. There is no way to tell from the method employed how much property is assessed at 80% or how much at 30%.

Redirect examination :

If the local assessor has attempted to treat all of the people in his assessment district alike, and assess all property at the same percentage, and in his judgment has done so, a horizontal raise would leave them treated alike in the judgment of the local assessor.

The field men and local assessors differ in their judgment as to value.

For the first two years, I was with the tax commission I was traveling nearly all the time looking up individual assessments of large properties.

I think I have a comprehensive knowledge in a general way of the habits and practices of assessing officers of Michigan since 1900.

183 (Under objection by Mr. Townsend of incompetent and hearsay) I should say that the general properties of the State were considerably under-assessed, the personal property perhaps to a greater extent than the real estate, and that that is a matter of common knowledge.

Recross-examination :

Speaking from general knowledge as to what I heard about the railroad property, I would say that it was under-assessed also, but I didn't make any examination or computation.

I examined property in Saginaw, Grand Rapids and Houghton, Marquette and Gogebic counties. Most of these counties were raised and the properties I saw put to cash basis prior to fixing the average rate. I consider the railroad properties were put to a cash basis also before that time, and all of the large properties that I investigated.

Direct examination by Mr. BUTTERFIELD :

Am able to state how much has been added to the assessed valuation of the general properties of the State in 1903, over 1902.

Mr. BLAIR : We object to that as immaterial and object to the character of the proof. If proven at all it should be proven by the original assessment roll in which the change actually took place.)

I find that the figures which I previously gave as to the difference were wrong, the assessed valuation of the State this year, as reported to us by the assessing officers, is \$119,698,045 greater than last year.

(Mr. BLAIR : We make the same objection to all this as immaterial, irrelevant and incompetent, for the reasons stated, and it relates to a period after the period under inquiry in this case.

I have here a table showing the assessed valuation of each county for the years 1902 and 1903.

184 It shows how much added by the local assessors and how much by tax commission. (Witness reads from the table as follows:)

County.	Valuation ass'd and reviewed, 1902.	Valuation ass'd and reviewed, 1903.	Increase by tax com.	De- crease by tax com.
Alcona	\$1,003,870	\$943,544	*	*
Alger	3,091,278	3,295,976		
Allegan	19,734,264	20,098,182		
Alpena	5,328,859	4,933,625		
Antrim	5,024,072	5,249,559		
Arenac	1,845,077	1,788,126		
Baraga	2,592,080	2,626,014		
Barry	11,029,205	16,264,005	\$5,046,115	
Bay	26,303,303	25,411,077		
Benzie	3,000,827	3,059,264		
Berrien	24,221,187	24,753,434		\$51,500
Branch	16,783,085	17,186,009		
Calhoun	32,088,179	39,278,669	2,161,735	
Cass	12,934,628	17,657,260	4,497,097	
Charlevoix	4,605,429	5,161,283	291,308	
Cheboygan	3,067,897	5,249,986	918,537	
Chippewa	13,050,967	14,200,025		
Clare	1,602,452	1,652,096		
Clinton	16,801,613	21,266,915	2,560,050	
Crawford	1,202,928	1,363,348		
Delta	7,376,508	9,670,679	1,247,022	
Dickinson	9,842,807	9,932,127		
Eaton	19,296,970	19,487,038		
Emmet	7,922,831	8,325,925		
Genesee	26,897,571	27,313,513		
Gladwin	1,825,587	1,911,542		
Gogebic	9,670,373	9,907,510		
Grand Traverse	8,025,767	8,404,646		
Gratiot	12,793,474	13,187,655		
Hilldale	17,883,838	18,074,211		
Houghton	103,716,341	93,661,655		
Huron	11,304,095	11,771,538		
Ingham	23,544,283	23,670,802		
Ionia	19,024,115	21,652,450	1,847,620	
Iosco	1,664,666	1,641,453		
Iron	4,307,955	4,152,077		
Isabella	6,121,216	6,291,569		
Jackson	34,666,739	34,230,717	1,764,968	
Kalamazoo	29,599,282	30,329,089	418,330	
Kalkaska	2,886,790	2,942,342		
Kent	94,498,141	95,514,408		
Keweenaw	4,967,588	4,904,130		
Lake	1,188,575	1,243,785		
Lapeer	13,247,548	16,429,613	2,845,235	
Leelanaw	2,121,476	2,139,415		
Lenawee	29,169,725	39,399,341	10,049,637	
Livingston	14,223,880	16,065,660	1,828,500	
Luce	1,833,419	2,001,522		
Mackinac	2,575,982	2,787,171	68,800	
Macomb	26,688,500	26,749,775	101,010	
Manistee	11,182,660	10,917,737		36,100
Marquette	25,982,635	25,986,589		
Mason	6,440,601	6,547,568		
Mecosta	3,880,585	3,995,036		
Menominee	9,305,744	10,439,984	727,390	

* Included in assessed valuation for 1903.

County.	Valuation ass'd and reviewed, 1902.	Valuation ass'd and reviewed, 1903.	Increase by tax com.	De- crease by tax com.
Midland	\$3,959,490	\$4,122,689		
Missaukee	2,142,401	2,048,080		
Monroe	17,076,015	17,238,618		
Montcalm	8,520,797	12,524,309	\$3,261,305	
Montmorency	954,840	999,716		
Muskegon	13,029,794	13,329,454		
Newaygo	5,279,099	5,415,546		
Oakland	32,902,383	37,122,019	405,495	
Oceana	5,089,232	5,214,415		
Ogemaw	1,379,553	1,846,598		
Ontonagon	3,968,519	4,483,194		
Osceola	4,297,260	4,300,113		
Oscoda	599,357	746,861		
Otsego	2,491,501	2,548,350		
Ottawa	20,192,315	21,298,279		
Presque Isle	2,530,575	2,755,915		
Roscommon	646,027	579,655		
Saginaw	39,442,671	40,048,159		
Sanilac	11,053,973	11,415,834		
Schoolcraft	3,247,097	2,978,064		
Shiawassee	17,340,907	22,929,310	4,595,855	
St. Clair	32,002,861	31,726,742	370,340	
St. Joseph	14,451,817	14,562,742		
Tuscola	14,652,530	14,492,229		
Van Buren	14,117,360	14,702,388		
Washtenaw	34,794,531	35,209,196		
Wayne	294,381,984	354,744,987	35,516,017	
Wexford	5,317,392	5,428,572		
Totals	\$1,418,251,858	\$1,537,849,903	\$80,522,366	\$87,600

Increase, \$119,598,045.

185 This is a correct statement of the facts as they appear from the records in the office of the tax commission. There will be a little variation in the final figures.

Cross-examination by Mr. WYKES :

The changes spoken of in the assessment roll, whether made by tax commission or local assessors, are made on the tax roll itself.

They were reported to us by the assessors, we compiled them, on blanks covering each county, and I took these figures from the footings of each county. In some places the amount of increase is small, in a good many cases, I would attribute the increase to the increase in the value of the property. This would be true of the majority of the increases made by the assessing officers.

A. F. FREEMAN, recalled for further direct examination, testified as follows:

(By Mr. BUTTERFIELD:)

Q. You did submit, then, to the State board of equalization, as I understand it now, the document of which Exhibit M is a copy?

A. Which I suppose to be a copy under the testimony of Mr. Gullifer.

Q. And did you personally attend the meetings of the State board of equalization?

A. I think I was there every day.

Q. What was the nature of those meetings—what went on there?

A. Well, each county would be called in the course of that whole meeting to see if anybody had anything to say with reference to how that county should be equalized, and usually there would be one, two and perhaps more representatives sent up by the supervisors, probably of the respective counties to attend that meeting and address the board of equalization with reference to the affairs of that particular county.

Q. State, if you will, your best recollection of the number of exceptions—were there very many exceptions to the rule that some representatives appeared for each county?

A. Oh, it would be a rare case; I would not say there was not some county that was not represented.

Q. Did you hear the remarks to the board of equalization by the representatives of the various counties?

A. Well, I think I heard every one. I may have missed some.

Q. Do you know whether the men who appeared there from the various counties were supervising officers or not?

A. Some were and some were not.

Q. As to those who were not supervising officers or assessing officers themselves, do you know whether they had qualification to speak on the subject of the value of property in their county?

A. Well, they appeared to have the qualifications, allowing me to pass my judgment upon it.

Q. Did they state to the State board of equalization what the fact was as to the assessment of property in their county, whether it was assessed at its true cash value or not?

A. Some did and some did not.

Q. I notice in the report of your board, Exhibit C, on page 36, this.

Mr. BLAIR: I object to the testimony given with reference to the statements of the representatives from the different counties before the State board of equalization in 1901 as incompetent and hearsay.

Q. (Continuing:) Referring to the persons who appeared before the State board of equalization "They rarely claimed that assessments of property had been made at cash value, as the law clearly

and forcibly directs, but in fact, admitted the prevalence of
187 the plan of assessing property at a percentage of its value.”
State whether or not that is a fact, whether you know that of
your own knowledge.

A. Well this was a part of the report—

Q. I mean whether it is a fact as stated in that report I just
read.

A. I adopted that, I didn't write it.

Q. Is it a fact?

A. I think so. It was always a comparison with the neighboring
counties that they were talking about, “As good as the other
counties.”

This was in the month of August, 1901; it extended into September. I cannot at present recall a single review that occurred in the State in 1901 prior to the equalization period, although there might have been one necessary for some particular matter. I mean, prior to the adjournment of the State board of equalization, which took place in September. Between the adjournment of the board of equalization in 1901 and the second Monday in October we went out and held some reviews; we didn't hold many because we didn't have much time, but we held some as I recall it. It was no general review, it was a special review, if any.

Q. Then up to the first day of January, 1902, had there been any general review held in this State by your commission at which all the property of any county was subject to examination with the exception of the county of Mackinaw, about which you said you were in doubt?

A. I think not. There had been examinations and work looking to that.

The field work upon which the report to the State board of equalization, Exhibit M, was based, had all been done prior to the adjournment, of course, of the State board.

Q. At the beginning of the year 1902 please state what was the
conclusion of the State tax commission as to whether or not
188 the general properties of this State subject to ad valorem
taxes for State, county, township, school and municipal purposes, exclusive of that assessed under act 173 of the laws of 1901, was assessed at its true cash value.

Mr. BLAIR: I object to that question as incompetent, immaterial and irrelevant.

A. Why, we were of one mind, that they were not assessed at value as required by law.

Q. What was the opinion of the board at the opening of the year 1902, as to whether that undervaluation to which you have testified was intentional or otherwise?

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant, the facts should be stated.

A. Some of it was intentional, I haven't any doubt, and some of it was ignorance, carelessness, and some of it, I believe, the assessors thought they were assessing at value, and some thought so near to value that there might be differences of judgment about it—all kinds of belief, varying with different conditions in the assessing officers over the State.

Beginning after the adjournment of the board of equalization we began to employ new field men, or old field men who had been on the old work, and to visit the supervisors of the State during the October session,—continued to do a similar class of field work to that that had been done before.

(Under objection by Mr. Blair of incompetent, immaterial and irrelevant.)

When we visited the supervisors at the October session, some of them made no statements at all as to whether property in their assessing district was assessed at true cash value or some percentage less, and some did make statements. I have had frequent talks with supervisors where there would be a crowd of us together talking about the matter, and they would admit that they were not assessing property at value,—that would not include all the supervisors, not by any means.

Q. Take for instance a county where you held a meeting
189 with the supervisors of that county, did it happen that any supervisor admitted that the property in his own district was not assessed at the cash value, but that it was assessed at some percentage of its true value less than 100%?

A. Oh, yes sir.

Mr. BLAIR: That is objected to as incompetent, immaterial and irrelevant.

Q. Did it happen that the man who made such a statement expressed to you also his opinion of the work of the assessors in neighboring townships in the same county?

Mr. BLAIR: That is objected to as incompetent, immaterial and irrelevant.

A. That was always the reason assigned why he did not assess at value, because the other fellow didn't, that was the universal reason assigned. I scarcely know of any other reason. About the per cent. that came up in various ways, the first question was started with something like that, and they later ended so that I was compelled to answer that in that way.

Q. Now, to make myself clear, the point that I want to ask is this: Whether any of these men who admitted that they were assessing at less than cash value, and intentionally so, stated to you what the fact was with reference to the assessments of other townships in their county?

Mr. BLAIR: That is objected to as immaterial.

A. That I think I have answered by saying that they would assign as a reason why they didn't, because their neighboring supervisor didn't, or they believed they didn't, and they used to discuss it out with me what other way they could do without putting more of a burden upon them if they should assess at full value and the others not do it. Could not tell how many counties visited during the fall of 1901. Could not reach more than one a day, the boards were in session from 10 days to two weeks. I think I visited 190 5 or 10 or 12, and may be as high as 13 or 14 counties during the session of the boards of supervisors, in the fall of 1901, 10 or 12.

There were few field men that got started that fall, but the number increased later. The work was of the same character as previously. And we required them also to take a good number of pickups to reach a value, meaning parcels of land of which there had been no sale. To talk to the supervisors, with the neighbors, and finally come to a value on that property, then later giving the percentage on the *assumption* that the supervisor was treating his people on the same relative standard of value, and by that method, we worked out, with the assistance of the sales, how a county was being assessed as to value. The work of the field men has continued uninterrupted until now.

In 1902 there was the general preparation of the fund of data to be gathered and sent out to the assessing officers of the State, and these mortgage matters being perfected, and the new mortgages that occurred were looked up, the record on them, and collecting all the data we could about the large property of the State, and among them was the reports of these corporations to the secretary of state, and we began last year the collection of a large lot of data respecting the vessel property of the State, and anything that we could gather that would be or that we thought would be a source of information to the assessing officers, and sending it down to them at the assessment period, and also getting together as a board and looking over the reports as they would come in from the field men and considering the details of the office and giving directions to the employés. In our visits to the different counties while the assessment was going on in the spring of 1902 we took data to them that had been collected, and presented it to them, and discussed out conditions in their particular assessment district to see what they had to say. That was prior to the first of June, prior to the completion of the roll.

Q. And you then I take it, urged upon them the importance of bringing their assessments up to true cash value?

A. Well it was always urging them, and then we would show them the data and see what they had to say respecting it, to see if they would not agree with us.

Q. What was the common result of those meetings, what did the supervisors have to say?

— . Oftentimes supervisors would admit the result and say "That is

about how I am assessing." Some of them would claim that they were assessing at full value notwithstanding the data, or say to the contrary, some would claim they were assessing better than our per cents would show them to be, not at full value, but better, and some would admit that was about right, and some would claim that they were assessing already at value.

Q. Now in those examinations that you made by a meeting with the supervisor or assessing officer in the year 1902 prior to the first of June when you had with you the work of the field examiners, state whether or not the board became satisfied that the percentage shown by the computation from the work of the field examiner was a percentage which extended quite uniformly over the assessing district?

A. Why, we would always ask the supervisor after these admissions, after his claims, if he was assessing all of his property upon the same standard of value and sometimes we put them upon oath upon that question, and he would say that he was using his constituency all alike.

Q. Did you find any exceptions to that?

Mr. BLAIR: I want to have it understood that my objection covers all of these talks with the supervisors and any admissions made by them, so as to avoid making constant objections.

A. No, sir, I cannot recall any.

192 I can't recall any exceptions to that during 1902. In 1902 between the first of June and the second Monday of October the commission was having special and general hearings upon the properties in different parts of the State as fast as we could get to them. In 1902 all the property was subjected to an examination by the commission in four counties, Macomb, Bay, Kalamazoo and Jackson. We were in St. Clair, but did not include the entire county, for the reason that some of the men had come to the standard we asked for, in the meeting in the spring, and some had not. We held reviews in the balance of those townships.

Where they had done all we asked for, we didn't review them. We had no occasion for it. We had percentages from our field examiner in portions of the city of Grand Rapids, where special review was not held, which showed the assessing officers had not assessed property at 100 per cent. But Mr. Dust personally went over the city with those members, and did considerable of the work—we assigned it to him because of his special knowledge of that class of property. We could not cover that whole city. We found what we termed indiscriminate work, brought up some portions of the city where we thought they belonged, and other portions were already there or nearly there. There were some counties by the second Monday of October, 1902, which had been completely worked by the field examiners in 1902 but which had not been reviewed by the board.

Q. Sometime near the close of the year 1902 did your board determine the true cash value of the general properties in the State?

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

A. We did.

Q. What did you determine that true cash value to be?

Mr. BLAIR: I object to that also as incompetent, immaterial and irrelevant.

A. 1715 millions.

193 Q. Did your board make a report to the governor of the State covering the period of 1901 and 1902?

A. The board did.

Q. I read from Exhibit C, being your report, on page 17, the following paragraph: "It would be impossible to enumerate the questions raised and the matters discussed at those meetings, but with them all we emphasized the importance of listing all property subject to taxation, and assessment of all at its cash value, endeavoring to point out that equal taxation and uniformity of assessment can be accomplished in no other way; that while the old plan of assessing property at a percentage of its value prevailed and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county, and the property of no two counties will be assessed by the same standard of value." Was that statement true at the end of the year 1902?

Mr. BLAIR: I object to that question as incompetent, immaterial and irrelevant.

A. It was true.

Q. You have said that a large number of assessing officers have admitted to you that they have intentionally assessed the property in their respective districts at a percentage of its true cash value less than 100%? Will you please give us your best recollection as to the total number of assessing officers who have made such an admission to you as a member of the tax commission up to the first of March, say, of 1903?

Mr. BLAIR: I object to that the same as before, it is incompetent, immaterial and irrelevant.

A. I would not be able to state the number that has admitted it to me.

Q. Give your best recollection or judgment of that number.

194 A. I am willing to give my best judgment of at least a certain amount, because it has extended so long and I kept no record of it, it has been going on through the entire period of my holding this office; I should say at least 500 in this State.

Q. Did you subscribe and make oath to the answer of your board

to the order to show cause in the mandamus case commenced in the supreme court by the Detroit board of education?

Mr. BLAIR: That is objected to as immaterial.

A. I did.

Q. I read from that answer——

Mr. BLAIR: I object to his reading from the answer and I object to the character of the testimony called for. He cannot sustain his own witness by reading statements made by that witness.

Q. (Continuing:) Paragraph 11 as follows: "That as this respondent believes and charges the truth to be, the undervaluation of the property of the State subject to ad valorem taxes for State, county, township, school and municipal purposes throughout the State was not the result of accident, inadvertence or mistakes in judgment, but that such undervaluation of said property was in a large number of the municipalities of the State intentional and general, and that this practice of undervaluation has been in vogue in this State for a great number of years, and that if the court desires to examine the data upon which the foregoing statements are based, it will be furnished." Are the statements of fact contained in the paragraph I have read to you true?

Mr. BLAIR: That is objected to as incompetent, immaterial and irrelevant.

A. They are true.

195 Cross-examination by Mr. BLAIR:

I was appointed in July, 1899 by Governor Pingree. At this time there was considerable agitation with reference to equal taxation. The governor was making it a special feature of his administration, and I was in sympathy with him,—one of his supporters endeavoring to bring about this result along the lines that the governor had mapped out.

The agitation subsequently resulted in the adoption of legislation for the purpose of carrying out the principle.

(Under objection as irrelevant and immaterial by Mr. Angell) A bill called the Atkinson bill was introduced at the session of 1899, there were quite extensive hearings upon it in the house and senate, the railroad companies appearing before the legislature. I was a supporter of the idea involved in that bill, which was passed and approved by the governor.

The Atkinson bill provided for the appointment of a board of assessors or commissioners, and I advocated about the State the ideas contained in it. The theory of the people was that certain great corporate institutions of the State were not paying their just share of the taxes of the State, and I believe that to be true, and was in favor of such a reform in the taxing system, that the property of those corporate institutions might be reached and compelled to bear

its just proportion of the burdens of the State. The Atkinson bill provided a scheme somewhat along the lines of the present law, and for the determination of an average rate.

The bill provided what should be taken for a dividend and what should be taken as a divisor.

After our appointment we got together, after taking the oath of office, talking about the commission, what to do, and laying plans and making policies.

No provision was made in the law of 1899 for the employment of field men, and in that act there was no distinct provision for the employment of a single clerk beyond a secretary. In order to employ field men we were obliged to go to the State board of auditors.

By the act creating the board of assessors, passed in 1901, we were authorized to employ clerical assistance. The act did not take immediate effect.

In the employment of field men, the very first man that was employed was at my suggestion, and was Samuel Bibbins. I knew his general qualifications, personally, and brought that to the knowledge of Mr. McLaughlin, and it was with his consent that he was employed. That was soon followed by another in a similar way. That was the course generally pursued.

The field men now in our employ are; T. J. G. Bolt, Muskegon county; Samuel Bibbins, Washtenaw county; W. G. Davidson, Midland; H. E. Stone, Flint; F. A. Mansfield, Grand Haven; F. H. Farnsworth, Detroit; A. H. Rolph, Escanaba; S. G. Horton, Goodrich; H. J. Wilkinson, Detroit; James L. Gilbert, Chelsea; B. F. Beekman, Charlotte; George E. Cogswell, Grand Rapids; T. C. Howard, Milan.

Those employed before fixing the rate in 1902 were; A. P. Horton, Muskegon; Coryell L. Tibbette; M. B. Kirby, Chesaning; M. F. Case, Washtenaw; Arthur L. Rich, Newaygo; John W. Perkins, Detroit; H. L. Freeman, Genesee; John H. Thayer, Oakland; Charles M. Smith, Wayne; E. M. Ledyard, Arenac; Eli L. Brown; John S. Wing, Eaton; John Caldwell, Missaukee; C. E. Whitney, Muskegon; B. Griffin, Saginaw; Henry J. Footlander, Macomb; George Wyckoff; John L. Murray, Muskegon; Fred E. Hazle, St. Johns. Louis Smith of Saginaw and Winslow of Kalamazoo did special work.

They were not all employed all of the time. They were substantially all working during June and July and August to the opening of the meeting of the board of equalization.

We had 32 men in all employed during the preparation for making the report to the State board. The two lists read, the second being Mr. Gullifer's list, total 32. The first half of May there were 6; second half, 18; the first half of June, 17; second half of June, 22; the first half of July, 25; and second half of July, 26; first half of August, 28; the last half of August 26, and in addition Mr. Winslow and Mr. Smith. A portion of these men continued in the

commission's employ, but they were all discharged at the close of the equalization work, and subsequently men began to be employed gradually. Each commissioner being allowed to employ a man. I believe that the first list given is a complete list of those employed since the meeting of the board of equalization, being 13 in number.

The 32 men employed during the spring and summer of 1901 were to cover the whole State, but they didn't. The lower peninsula was covered satisfactorily, with the exception of Roscommon and some other counties. The upper peninsula was covered in a way, differently somewhat from the lower peninsula. We did not feel that any of the men we had in our employ were competent to go in and judge of the values of the properties of the upper peninsula, especially the mining property, but we gave directions to the men we sent there to look over general properties, exclusive of mining properties. We did not arrive at a value for Houghton, Gogebic, Menominee or Iron counties, but submitted data in regard to them.

In Houghton county we made an estimate of the general properties similar to that in other localities, and when it came to the value of the mines, we submitted the value of the stocks at three different times. Omitted giving estimate of the value of those counties as we did not have sufficient information to make a reasonably accurate estimate.

198 We did not have men in the upper peninsula through the period covering the equalization time, as they were all employed in the lower peninsula, but as we approached the close of the time, we went into the upper peninsula.

So far as I know they examined particular parcels of property to come to an intelligent judgment of their nature and value. We relied upon what they said, we had generally assumed that they told the truth. As a general rule we did not look over their work, that was done at the office after the reports came in. We sent men whom we thought would be competent to judge of the kind of property examined. Think they would be strangers so far as living there would be concerned. If there were but few sales, not enough as a criterion of how the supervisor was performing his work, then would take what I have called here frequently "pickups."

We directed and got those so that we would have sufficient data. There was no uniform percentage of the number of pieces examined to the number of pieces of assessible property in the district. It was small in comparison with the volume of property. As a clear error in one particular description of property would disastrously affect the entire valuation, that was one of the purposes of telling the men to look into glaring inequalities, and unless they could verify the sale, we used a discretion upon their report and threw out a lot of them.

Where there was something extraordinary about a transaction it would be the judgment of the board that it should be eliminated.

I don't want to say that that was general, but we did it in a lot of cases when it came to our attention.

The reliability of Exhibit A came up for discussion on the board. I did not regard it as reliable enough for me to base some things on. It was not made the basis of the report to the State board of equalization, but we relied upon other work.

I took it as leading me to the conclusion that the property of the State was not assessed at value, but not reliable enough
199 to make a report to the State board of equalization on.

Washtenaw county has been regarded as one of the good assessed counties of the State, all of the commission seemed to agree upon that.

We are going to have a general review, and expect to hold it there this year. We have regarded that county as approaching true cash value, along the 90's. I can't say that the county as a whole is above 90 per cent., in the light of our examinations recently.

Where the field men report certain percentages of value, we did not accept that as final, but passed upon it ourselves, and sometimes after talking with supervisors and getting their side of the question, adopted a different percentage, but this has been rare.

Did not take part in the general reviews in Bay and Jackson; though I have been in reviews in those counties, but not the general one.

(Under objection by Mr. Angell.) If the counties of Bay, Jackson, Saginaw, St. Clair, Macomb, Kalamazoo, Washtenaw and Manistee, as reviewed, should be less than the value of those counties as reported to the board of equalization, I would regard that review as of more reliability than the report to the State board of equalization.

This would, in my mind, lessen the value to be attached to the data reported to the board of equalization. If the real estate of the counties named was reported to the State board of equalization at \$287,723,155, and upon review fixed at \$243,289,850 or 84.6 of the amount reported to the State board of equalization, I would say that the work done later is much more reliable, and I should rather choose to act upon it than upon the other, and it would cause me, to a certain extent, to seriously doubt the value of the information upon which the report to the State board of equalization has been made.

200 We had a general review in the county of Kent, outside of the city of Grand Rapids, and finally reached the correct valuation which is in the report (\$94,498,141). There is a serious discrepancy in the amount of \$106,244,208 for the county of Kent reported to the State board of equalization, as found on pages 374, 375 of Exhibit F to the bill, but we have not covered as yet, by a review, the city of Grand Rapids.

And did not pass the city of Grand Rapids as correct. We have for certain reasons quit Grand Rapids, but not because I thought it was properly assessed. We had several hearings there, and the talk

on the board was that we had better not touch the city, as we had jerked up a good many personal properties there, and things were getting somewhat feverish, and we had better not pursue it too much in one place, but go somewhere else and keep up the work.

In Saginaw city I think the assessor is doing the best work of any in the State. It was accepted practically as being at cash value.

Attention of the witness called to the report to the State board of equalization in 1901, page 175, giving Saginaw county as \$41,997,094. The value of the same county after review, given in 1902 report, was \$39,442,671.

I think that is quite close, when you get into the millions like that and only differ a million or two. A difference of two and a half millions in a county assessed at 39 millions we regard as quite close. If the cash value of Saginaw county, according to our best data and information had been \$41,997,094, and the assessing officers had assessed it at 2½ millions less, we would have gone into counties where the work was needed more, but would not have approved of the assessment without an absolute review and consideration of the property of the city of Saginaw.

Had a general review in Kalamazoo. Attention of witness called to valuation for Kalamazoo, reported to board of equalization 201 as \$34,305,210, and the valuation placed on review as being \$29,599,282.

I do not regard that as a trifling discrepancy, but don't know whether the general review covered the city of Kalamazoo.

Attention of witness called to figures for Jackson county, reported to board of equalization at \$37,838,738, and as fixed upon review, \$34,666,749. Does not regard this as a trifling difference, too much in a county of that kind. Does not think that goes to show report to board of equalization was unreliable. It was simply the best that human mind could do, and we did it to give them all the data we could.

We considered the way these things were going, so far as reviews had been held when we came to fix the average rate in 1902. We are trying to get this as nearly correct as human mind can get it. There is no such thing as accuracy, and no man can go to a piece of property and say what the property is worth with the same accuracy that he would measure a foot of wood or a gallon, but it is a matter of judgment; there are many instances where men sell property for much less than it is worth.

And sometimes it is sold for more than its value. The statute fixes the selling price as the cash value. It should apply in all cases. Did not think that fixing the amount of 1715 millions as the total cash value of the real and personal property of the State was in the nature of a guess.

Did not regard that something over 100 millions personal property increased valuation went into the 1715 millions, and did not regard that any went in, or that there was any increase at all in personal property over the assessment made by the assessors. I had

my ideas as to the value of the real estate made up from my general understanding of the work upon this commission and the various data that I had collected in reference to it. The 296 millions does not represent the addition made to the assessed valuation on account of real estate alone. When you say 296, it was not gotten at in that way, but resulted from the work.

It was made up of the real estate, as I viewed its value, and the personal property as assessed. A great deal of discussion took place on the board of the vast amount of personal property that was not assessed in the State. Many of us speculated that the State was perhaps worth as high as two billions of dollars, and many of us believed it as a matter of belief. It did not enter into the fixing of the ultimate sum. We could not do it, we knew no place to stop. I did not regard that I did include personal property increase. I don't know what the others did respecting it, or what they included in reaching the total sum. There was a lot of talk about what different ones should use in arriving at this 1715 millions, and so far as I am concerned it finally crystallized into the action of the board.

I don't know what the members of the board made up their figures from to reach that 1715 millions. I don't think there is any record of the method of figures by which it was reached. Didn't take 1702 millions as a starter, but it had much to do with my determination. I thought of it and we spoke of it. I don't think it was the basis upon which the board made its final determination. It was not my basis at any rate. It was talked about. The whole understanding of the board was talked about, I talked of the work and the data that came out of the matter that appears in this Exhibit A, and that entered into my calculations to some extent in settling the matter in my mind that the property of the State was not assessed at value.

Q. That is to say you took your data there, which you considered not to be over and above reliable, and you made a guess as to how reliable it was.

A. No.

Q. Didn't you?

A. No, sir; not that.

Q. How did you definitely arrive at your figures?

A. Well, sir; I was about to tell you; taking all the data we had and all that I had seen and understood and going over this State for the last three years then, a little more, and out of it all coming to this conclusion, that the State was worth the 1715 millions, although I will admit that when you get down to an exact point, the five of us, the different members of the board, differed a little, some were above and some were below, and we centered in there all of us with the figures."

(Objection by Mr. Angell to this line of questions, and motion to strike out testimony by which the judgment of board is sought to be attacked as regards total cash value.)

At that time there were few counties from which we had field notes in comparison with the whole of the State. The data which we have from other counties are those gained in my wanderings about the State.

I do not consider that this would be definite information upon which to base an accurate statement of the value of property in a county.

“Q. And in the final analysis of your action, in determining these values, it comes down to this: You made the best guess you could from such information as you had received outside of your field men in those counties?

A. Well, I reached the conclusion like this—

Q. (Interrupting.) Now answer my question, I want to get at that very point; whether you did not as a matter of fact at last make the best guess you could outside of those counties where you had this valuable information?

A. I don't regard it that the guess of seventeen hundred and fifteen as you call it was a guess.

Q. I say outside of where you had this valuable information from your field men?

A. Well, I do not regard that total sum as a guess. I think I can say that there is that much of property in the State beyond a doubt at the least amount.

204 Q. I want to get back to that question again and will insist upon your answering my question. In so far as those counties in which you had not had your field men at work and had none of their data, if you did not so far as those counties were concerned make the best guess you could as to the valuation of those counties?

A. No, I don't regard it as a guess.

Q. What did you call it?

A. I called it that that certain sum was a certainty in my mind.

Q. It was not mathematics in those counties?

A. No, sir.

Q. Let us get away from the fixed sum. It is not the theory of this statute is it that you are to find out what something is worth at least?

A. It is my theory that we should find out that it was worth a certain amount, that I was willing to rest my conclusion upon.

Q. Don't you understand it to be the theory of that statute that you are to find the true cash value of the property?

A. I found it in my judgment to be that amount—in my best judgment.

Q. Didn't you base that judgment upon simply guess work upon your part?

A. I don't think so.

Q. In the counties in which you had none of this information?

A. I don't think so.

Q. How did you get at it—take a county where you didn't have

any field men, where you had no general review, how did you go to work to say what that county was worth?

A. As I say, I brought to my understanding all the data I had collected.

Q. Give us what you had, that is what I want to get.

A. As I told you, it was the examination made by the State tax commission from the beginning down to that time, so far as
205 I was concerned, and among that information that came to me was the information collected by the first board, next the field men's work, and next the way things were going, so far as we had gone with this accurate work, as we called it, then my talks all over the State with supervisors, and the information that I had obtained in my wanderings, as you say.

Q. The way things were going?

A. So far as the reviews had much to do with it, and finding matters in that way and justifying that.

Q. Did you find two counties that were assessed precisely alike?

A. No, sir.

Does not recollect any townships where the percentage was the same in each, although it might be. As a matter of fact they varied because they were doing a different assessing all over the State. As a matter of mathematics could not determine the exact valuation of a county. The soil, location, and situation of the property entered into my mind largely, and the field men examined the quality of the soil, did not take it for granted that that kind of soil and surroundings applied to every single section of the 36 when they made their investigations of one.

The idea was to take a goodly number of properties, 15 or 20 or 30 or 50 and determine the values of those particular properties and the assessment upon them and strike a per cent., as to those, then those supervisors would swear that they are assessing their properties on the one relative standard of value, serving everybody alike, but not at the true cash value.

They would state that they were serving people alike and putting everyone on the same standard, whether it be 80 per cent. or 100 per cent., or any other per cent. Every one of them swore that he was assessing property on the same standard of value, but did not say that the standard of value was cash value. In some counties they would claim they were assessing at cash value, and some of them would not.

206 I have not always asked them whether they were assessing at true cash value, and they could not always claim it. As to whether they claimed it in a majority of cases, it is pretty well divided, I will not say which was a majority, it has been an even balanced matter. Some would admit one way and some another.

I know that under-valuation was intentional and general because men have admitted it to me. Could not give names of the men who admitted it. The stenographer was with us but little until this year,

some last year, can't tell how many sessions he attended in 1902, he may have attended them all.

And can bring but one place to my mind where supervisors admitted that they were wrongly assessing property. Since I have heard that the stenographer was subpoenaed, I have told him that I wanted him to look up and tell me where supervisors have admitted in his record so far as it did extend. I do not think he stated to me that he was able to find only two instances in 1902 and not any in 1901.

“Q. Where did you get at this sum of 500—at least 500?”

A. Well, I haven't any doubt in my mind that more did, but I don't care to risk my oath beyond 500.

Q. That is a matter of guess, isn't it?

A. That 500?

Q. Yes, sir?

A. I am willing to swear to it that it was that amount.”

Could not enumerate the supervisors that did that. Groups of us would be talking at sessions I have had with them, and I would ask them why they didn't assess at cash value? And they would simply answer: “You ought to know why we don't; the others don't and I can't. Would you do it if you were a supervisor?” The other commissioners had the same opportunity for hearing these statements, though I have had more reviews and examinations than they.

207 The fact that an increase of 296 millions in the general properties of the State had no concern with me. I was trying to find the value because, as a piece of mathematics, to produce equal taxation, in my judgment, that has to be done.

(Objection by Mr. Angell as irrelevant and incompetent.)

I think we all talked that if we took the figures from the local assessors, that that would increase the rate so far as the railroads were concerned to such an extent that they would bring suits to set aside the law, and that the school moneys would not be collected. It was a source of common talk among us. I don't know whether we have said it frequently, it was a conceded fact that it would do that. We thought over that fact. In fixing the average rate we had a legal opinion upon which we based our right to fix it in the way we did. McLaughlin was opposed to the view expressed in that opinion. The opinion was Attorney General Oren's.

Q. Did you have Mr. Oren's opinion at the time you fixed that rate?

A. Yes sir, we had an opinion from him.

Q. Did you fix that rate on the 13th day of December?

A. I could not tell now.

Q. You fixed it on Saturday, didn't you?

A. I would not be able to say that; I don't believe it was Saturday because I hardly ever remained a Saturday; we always get home if we can and are out of here on Saturday.

Q. The roll itself I suppose would show?

A. The date fixed there?

Q. Yes sir?

A. Well, that date was like this, the way that came to be; we looked at the statute and found that must be fixed on or before the 15th day of December, and the 15th of December falls upon Monday and we dated it as of the 13th, although we had established
208 the fact and the certificate had been made up a day or so before that, and we reached the general conclusion that that is the way it would be immediately after we received Mr. Oren's opinion.

Q. As a matter of fact you did have that rate actually established on the 13th of December?

A. I don't think that I was here either, I think it was signed—I think I went home Friday.

Q. Wasn't that published in the Detroit papers on Sunday morning the 14th?

A. That certificate?

Q. Yes sir; the statement that you had fixed the average rate?

A. Well I am inclined to think you may be right, I am not sure about that.

Q. You had fixed it on the 13th.

A. Yes sir but it took days before; legally and technically on the 13th, that is the date it seems it bears.

Q. As a matter of fact you hadn't any opinion from Mr. Oren on the 13th?

A. As a matter of fact I had a verbal opinion quite a spell before that.

Q. You did?

A. I did.

Q. Didn't Mr. Chase at the room of the Downey house where you were holding your final meeting to establish that rate show you a telegram from Mr. Oren from the city of Washington in which Mr. Oren stated that he wanted two opinions prepared and for Mr. Chase to meet him on Sunday at Detroit and that he would then determine which one of those opinions he would decide upon.

Mr. ANGELL: I object to it as irrelevant, it is a matter not affecting this controversy at all.

Q. Wasn't that the fact?

A. Something like that. Before then we had received an opinion, or I had received a verbal one the secretary had handed me his opinion.

Q. Did you consider when you saw the telegram from Mr. Oren that he wanted to act upon two opinions as to fixing the average rate, and asking his deputy to meet him in Detroit on Sunday—

209 A. (Interrupting.) I didn't understand it as you have stated it that Mr. Chase did, but he had some talk that there was cor-

response or telegrams going back and forth, he could not reach Washington where he had gone, he had swung into New York State somewhere and he could not reach him in time enough to settle some dispute going on between Mr. Wykes and him as I got it from Mr. Chase.

Q. That dispute was as to which opinion should be given?

A. As I understood it, Mr. Chase said to me that undoubtedly it will be his opinion because when he makes up his mind that is it, and I got it from him that the opinion goes as given to the board, I reached that understanding from the talk I had with Mr. Chase.

Q. Did Mr. Chase say that to you?

A. Words to that effect, as I understood it.

Q. Wasn't it understood between you and Mr. Chase that the board would not fix that rate until Monday, until after Mr. Chase had had an opportunity with Mr. Wykes to consult with the attorney general at Detroit and submit this whole question to him?

A. That was not my understanding, it may have been Mr. Chase's but it was not mine because I had received an opinion from Mr. Oren verbally and another one in writing.

Q. You had been interviewing Mr. Oren very frequently upon that subject?

A. Yes sir, and I tried to get you there too.

Q. And you had been insisting upon this opinion which you finally adopted?

A. Why, it was my view, to produce equal taxation there must be an equalization of some kind, a comparison that was somewhere near right.

Q. You labored with him to induce him to accept that opinion?

A. I don't know what you call laboring, we discussed it at much length in the way of an argument.

Q. Time and again?

A. No sir.

Q. Can you remember a great many times discussing it with him?

210 A. No, I was there once only discussing it with him, I remember one whole day's discussion with him nearly, upon that question and one or two others we had.

Q. How long before the establishment of this rate, was that—how long before the 13th of December?

A. Well I could not fix dates exactly, but along in November; I had been studying this question so much I had reached the conclusion that if we made a roll we could not stand up under it unless a divisor was produced that was somewhere near right and the thing was with me continually, I was not producing equal taxation, and it was bothering me.

Q. Weren't you at him continually?

A. No sir. Finally I wrote you and wrote Mr. Oren to fix a date when a conference could be had.

Q. I don't care about your going into that.

A. I have your letter in reference to the matter and I would like to produce it and put it into the record to show the good faith with which I acted.

Q. It was not a good letter anyway.

A. I shall ask the privilege to do it.

Q. After that letter had been written to you and after this rate had been fixed in the consultation that I had with you, I informed your board, did I not, that in my opinion that rate could not stand as a matter of law?

A. You did.

Q. And as a lawyer and as the attorney general of the State I deemed it my duty to take the opposite position in the supreme court.

A. You did.

Q. I gave you my reasons for that also, with reference to the attack that had been made upon the State by the railroad companies.

A. Yes, and I told you I thought you were jumping out of the frying pan into the fire, I told you that.

I also made some affidavits in this case.

211 The affidavit was probably made on the 29th day of May.

It was not held by me awaiting developments or advice, and I do not know that Mr. Butterfield had any purpose in holding it to obtain other affidavits. I did not request him to hold it.

Knew of Mr. Sayre's making an affidavit, saw it, but did not read it over.

Q. Had his affidavit been made at the time or was he considering whether he would sign it or not?

A. Well, I will have to tell you the details.

Q. I asked you that question. Had he signed his affidavit at that time or was he considering whether he would sign it?

A. It seems to me he handed that affidavit over to Mr. Butterfield and then an impulse seemed to strike him and he went and requested it back again and then he came to me and said, 'Here, I want to take some counsel on this matter in view of a fact I have just learned, that Mr. Dust has declined to sign the affidavit.' We hadn't a thought of anything being irregular about the thing; I said, 'If you are going to withhold yours, if there is any question about yours, I shall withhold mine,' and I went to Mr. Butterfield and said, 'Here, Mr. Butterfield, what is there about this matter, is there anything wrong about it, do you know of anything wrong about this matter?' 'Why no,' he said: I said 'Mr. Sayre and I desire to take some consultation over this matter before you allow these affidavits to go.' And he said, 'All right; and Mr. Sayre went to Mr. Butterfield and obtained the affidavit from him.

Q. Who did you consult with?

A. Well, Mr. Sayre told me that he had learned from the register that Senator Atwood was in the city, I had not seen him at that time, and he said, 'I am going to see him over night and consult with him about it.' I said, 'Very well, that is satisfactory to me,'

and I learned the result of that matter, and we all of us went to some theater that night, the four of us, and he agreeing with me to see Mr. Atwood over night, saying also that he would be
 212 compelled to go away on the early train because he was a pallbearer to Judge Durand's funeral and he would be compelled to take an early train, I said, 'Very well, then I will see Mr. Atwood myself in the morning and learn the result of your interview, and I did not succeed in seeing Mr. Atwood until something like noon, maybe a little after noon, I am not sure about that, but I did see him however, and consulted with him.'

Q. Did he advise you to sign it?

A. He said that he had told—he had wired Mr. Sayre that he saw nothing irregular about it at all; we had already sworn to the facts, and it appeared that Mr. Atwood had seen Mr. Sayre's affidavit, in the talk that I had with Mr. Atwood; and he said there was nothing irregular about it, we had already told the same thing at the time of applying for a preliminary injunction, it was not testimony, and it done no harm, not at all, and he wired Mr. Sayre to that effect.

Q. You did not consult with the governor about the matter?

A. No, sir; I went at it as innocently as a child.

Q. You did not consult with me about it?

A. No, sir.

Q. Didn't it occur to you, inasmuch as you were a State officer, regardless of the antagonism that had come into our relations in our opposing views in the city board of education case, that as I was the attorney general of the State representing the State's interests in these very important cases, the most important that had been brought against the State that it would have been proper to have consulted me with reference as to whether you should make these affidavits.

Mr. ANGELL: I object to that as immaterial.

A. No, it did not occur to me, and I will say to you, it might have been proper if it had occurred to me, and I probably would have willingly done it."

Mr. Dust's refusing to sign the affidavit put me on inquiry to a certain extent.

Counsel reads from the affidavit attached to the bill, the paragraph: "Deponent further says that he has been present at
 213 the examination of a large number of assessing officers of said State when said assessing officers have been interrogated as to their method of arriving at the assessed valuation of the property in their respective districts, and that at least 500 of such officers have stated that they uniformly and intentionally assessed property in their respective districts at a certain percentage of its true cash value."

Q. You say that was true, and that that actually occurred, that not less than 500 of the assessing officers of this State stated to you

that they had uniformly and intentionally assessed the property in their assessing districts at less than their cash value?

A. I perhaps did not use the word 'uniformly' or 'intentionally.'

Q. It is in your affidavit?

A. I may have adopted those words, they may not have said it in those words, but they said what they did and that would be uniformly and intentionally, as I view it.

I am willing to swear that at least 500 of them admitted to me that they are not assessing properties to value. It is not my interpretation of that affidavit that they used the words "uniformly" and "intentionally," the identical words you state there; but you tell what you said when you give the conversation, and that is what I did upon that.

The duties of the State board of tax commissioners are defined by act 154 of 1899. Section 150 requires it "to prefer charges to the governor against assessing and taxing officers who violated the law or failed in the performance of their duties in reference to assessment and taxation, "And in the execution of those powers the said board may call upon the attorney general or any prosecuting attorney in the State to assist said board."

A. I am very familiar with that section. And understand it as a part of the duties of the board.

As a guess, we made complaint to Governor Pingree of 150 or 160 assessing officers under that section. I think, too, that we proceeded against some criminally.

214 We just got the matter brewing against a lot of them and Governor Pingree went out of office, and that was the end of the proceedings so far as the preferring of charges were concerned. After that we preferred no charges.

That was a part of the duty of the board as much as it was the duty of the supervisor to assess at true cash value, but there was too much work to be performed. We could have made the complaints where the man himself furnished the information to convict, or could have called upon the prosecuting attorney. This is one of the things we talked about, and we concluded it was better to get the property on the rolls. The board concluded that that was the better way.

Q. The board concluded then that it would disregard the statute?

A. If you are pleased to put it that way.

Q. That is the way you have put it.

A. The statute made a plain provision to do something else, and if we were engaged in doing something else we could not make criminal complaints, we couldn't do it.

Q. These things were designed as means of bringing about the other things?

A. Yes, sir. The great duty was to see that the property was assessed at value, that was the first thing named, and if you do that

you won't be engaged in a single prosecution in the State, you can not perform even the first duty."

The best work that we could do to find out the values of property in a county was to assemble the board of supervisors during the assessment period from April until the close of May, and interview them as a body, and then meet them again in the fall, and I have attended the January meetings some. That is the way generally that I got my information. I have walked up and down the streets many a time with an assessing officer of a city and asked him how he assessed that block and how he assessed this, and what amount he had on it, and so forth, and perhaps gone out into the country, but very little.

We all have our ideas about property. Don't think it would be a reliable way to undertake to determine the value measured by the selling price by just looking at it. In making the review and fixing the values of property, we acted almost entirely on hearsay—or testimony. That is, if you call everything that is reported by others hearsay. But I look upon it that if the supervisors were giving facts that is testimony, just the same as if we took it in court.

In making up the information to the State board of equalization we had a number of different guide sheets; one of them contained the field man's values, another contained the pickups and the third combined the two.

We discussed in the board, which was proper, to take the sales or the pickups and to gain a percentage from them and decided to give the State board of equalization both for them to use in the way that they thought best. They were to determine the fact, and they determined it at \$1,578,000,000. There were two, as I remember, pickups and transfers, and I would not say that the other was not given to them. The different methods got different results, though there was not enough difference to talk about.

I have had consultations with Mr. Butterfield; he was here an hour a week or two ago. McLaughlin and Dust were present. I don't know that I have given him information aside from those times when Dust and McLaughlin were here. He did ask me to meet him somewhere, and I met him at the St. Clair hotel, and he asked me if certain data could be had at our office. A spell ago I was taking a train and I went up to his office and made a personal call.

I have not furnished Mr. Butterfield with any information, in reference to this portion of the case, any more than that if he asked me if a certain thing existed, I would answer him and he has asked me for certain data and I have answered him in regard to it.

I can recall one time that I was at his office which occurs to me. There was a hearing at Marshall and the train was four hours late, and we went up into his office to see if we could not get a fast train to stop for us and let us off for that hearing. I don't recollect being at his office but once since the filing of this bill.

The members of the commission occasionally make mistakes, and sometimes over-assess and get above cash value. This has occurred in certain horizontal raises.

I presume the over-assessments by the commission have occurred in a great many instances.

I think that we were a more prosperous State in 1902 than in 1901, when we got the sales values. And in my judgment it has been a continuing prosperity since. And since the report to the State board of equalization, new properties have come into existence and some have gone out. Large new properties have come into existence and large additions to property have taken place. It is a great State, and would naturally produce some.

The percentages in the different townships vary. I know of no concert of action among assessors of different assessing districts, unless it might be in a city having supervisors. There was no concert of action between the supervisors that I discovered.

Attended meetings of the State board of equalization every day, endeavoring to assist them in arriving at true cash value of the property of the State. They adopted our advice to a large extent, taking all the data they could get. I suppose that they were attempting to find the true cash value of the property of the State. It was a frequent remark that every representative of a county came with a tale of woe with reference to his county, and was maintaining that his county was assessed at much above what it ought to be and above what everybody else was assessed at, and that he ought to be lowered.

217 Redirect examination:

Witness shown Exhibit M. The figures on each page under the footing of column headed "Total valuation" are evidently the equalized value as fixed by the State board of assessors.

The first figure appearing below the printed total of the column is in each case the equalized value as fixed by the board of equalization.

Mr. BUTTERFIELD: We desire to substitute for Exhibit M the loose sheets marked "M-prime" which are the original of Exhibit M, the report of the State board of tax commissioners to the State board of equalization in the year 1901.

A. F. FREEMAN resumed the stand, testified as follows:

The WITNESS: I desire to make some explanation of my testimony.

Mr. BUTTERFIELD: Is there anything you want to explain?

A. Yes, sir; there is.

Q. Proceed.

A. At the time that the members of the board of assessors was making up the total amount of 1715 millions there was a great deal

of talk occurred by the members of the board as to personal property not assessed and among it was stated the vast sum that appeared by the banking commissioner's reports of money on deposit, that was one of the things; we talked of the fact that none of us in our experience over the State had found watches assessed, very few indeed, diamonds were not in the statements, or jewelry, and it was a rare case to find any household furniture in one statement and supervisors and assessors over the State admitted that those things were not on the rolls—not in the statements or on the rolls as a part of the personal property.

218 Mr. BLAIR: I object to that as immaterial.

The WITNESS: We all agreed, however, with them, we had no right to speculate upon it, and then there was the fact of the large amount of foreign corporation stock that was believed to be held in the State and scarcely ever any found in the statements; it was felt that a large amount of bonds of corporations was not in the statement; and I remember we talked about that, and I remember particularly that while we believed as to those things, we had no right to take this into consideration, so far as I am concerned, in arriving at that amount I did not, I reached my conclusion from all the knowledge I had of all the personal property that was assessed.

Respecting the affidavit, I want to make one statement: There is another reason for the giving of this affidavit; it was going into a court and there could be no harm because a court would take care of the proposition, the affidavit wasn't testimony and it was my desire, I will say it frankly, that the court might have my views respecting that property, with the one purpose in mind and in view to save that roll that I helped to make.

Mr. BLAIR: I object to this line of testimony, it is wholly immaterial, incompetent and irrelevant.

The WITNESS: I was shut off from giving it, they didn't ask me anything about it, and I want to give it as my reasons because I believe firmly, I may be wrong about that, that without something of this character is done all that work that we did will go for naught.

I also desire to offer this letter which I hold in my hand. Please mark it.

(Letter referred to marked Exhibit O.)

The WITNESS (continuing): It is a letter that you said you signed, I assume it came from you.

Mr. BLAIR: I object to it as incompetent, immaterial and irrelevant.

219 The WITNESS: I will offer it to show the good faith with which I acted. I acted under your advice, as I viewed it, the letter reads as follows: It appears on the letter head of "Charles A. Blair, Benjamin Williams. Law offices of Blair & Williams."

"JACKSON, MICHIGAN, November 18, 1902.

"Honorable A. F. Freeman, president State tax commission, Lansing, Michigan.

"MY DEAR MR. FREEMAN: On returning from the deer country of northern Michigan yesterday I found awaiting me your letter of the 14th inst. suggesting that I meet with your commission and the attorney general at Lansing on Tuesday or Wednesday, the 18th or 19th inst. I should be glad to have the advantage of such a meeting, but my neglect of my own business for the past two months has been so great that it seems imperative that I should now devote my undivided attention to it.

"I am fully in sympathy with your commission and shall back you up to the very fullest extent of my ability, and any conclusions which may be arrived at between your commission and the present legal department of the State will have my hearty support.

"Yours truly,

CHARLES A. BLAIR."

I had a conference with Mr. Oren, I cannot remember the date, but it lasted all one afternoon anyway.

Mr. BLAIR: This is all taken subject to my objection, it is incompetent, immaterial and irrelevant.

The WITNESS: When we got through with it he advised me, as appears in the opinion given to our board, and I asked him when he would put that opinion in writing, he hesitated somewhat and said "I will think about it, it is a great question." I asked him what he would do if he were a member of this commission in
220 arriving at that average rate and the divisor so-called, as to adding to the assessed amount of the property of the State; it appeared that the assessed amount did not agree with the value of the property, and he said to me, "I would do what was right, Mr. Freeman." "What do you mean by that, that I have the right to add to that assessed amount what I or the board would deem to be the amount if it is beyond the assessed amount?" "Yes." I then renewed my request to give his opinion in writing to the board, and he said he would think about it; I received a copy of a memorandum of opinion said to have been written on a train and handed to Mr. Gullifer, and Mr. Gullifer handed it to me the next time I came to town, which was the next Monday or Tuesday after this conversation, as I recall it; Mr. Gullifer handed to me a copy of that memorandum and said it was a copy, and I believe it was because it was in harmony with the talk that Mr. Oren and I had had; Mr. Gullifer also carried that memorandum of opinion to the members of our board as soon as they were in session on Monday or Tuesday, we all knew of it at once, and we then gave up, that we would have to determine the amount with reference to the property of the State, and every one of us was pleased, that assisted us in working out what we called equal taxation; Mr. McLaughlin himself doubted the right to do

that, he thought that the rule fixed by the legislature was controlling, and while he said he thought the law ought to be that way, the law was not that way, in his judgment the equity of it was that way and it should be so, and with that statement to us he joined with the rest of us in arriving at the amount and worth of the properties of the State; I think that is all.

Mr. BUTTERFIELD: I understand it is conceded that that portion of Exhibit F attached to the bill of complaint from pages 1 to 16 inclusive, is a copy of the proceedings of the State board of equalization for the year 1901, and that if it is not in fact, then it may be corrected, but you waive proof of the actual authenticity of it.

Mr. BLAIR: Yes, sir.

221 IRA T. SAYRE, on the part of the complainant, testified as follows:

Direct examination by Mr. ANGELL:

I reside at Flushing, Genesee county. Am a member of the State board of tax commissioners, and have been since May, 1901. My associates during that period have been Messrs. Freeman, Dust, McLaughlin, Jenks and Kerr. Mr. Jenks retired about January 1, 1903, since which time Mr. Kerr has been a member.

Heard Mr. Freeman's testimony as to the general work of the tax commission, and understand that the testimony of all the commissioners on this subject was practically the same, and is correct as regards the general methods pursued by the commission and the general work accomplished. Was a member of the board when report to State board of equalization—Exhibit M—was prepared.

(By Mr. BLAIR: Same objection made in the case of Mr. Sayre as to similar questions in the examination of the other commissioners.)

Exhibit C is the report of the board for 1902, which was submitted to the legislature this past winter. That is one of the authorized copies of the report. It contains a report not only of the board of State tax commissioners but also of the same gentlemen sitting as a State board of assessors, so that in a general way it is a complete résumé of the work during the years 1901 and 1902.

Mr. ANGELL: If there has been any question about this, and I don't know whether there has or not, I have proven the accuracy of this book and I now offer it in evidence again.

Mr. BLAIR: We object to it as incompetent, irrelevant and immaterial.

Page 17 of Exhibit C says "It would be impossible to enumerate the questions raised and the matters discussed at these meetings"—referring to the meetings with the supervisors—"but with them all we emphasized the importance of listing all property subject to taxation and assessment of all at its cash
10—397

value, endeavoring to point out that equal taxation and uniformity of assessment throughout the State can be accomplished in no other way; that while the old plan of assessing property at a percentage of its value prevails and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county, and the property of no two counties will be assessed by the same standard of value."

That statement is correct to the best of my judgment. Page 36 of this book says: "They rarely claimed that assessments of property had been made at cash value, as the law clearly and forcibly directs, but in fact admitted the prevalence of the plan of assessing property at a percentage of its value, one claiming a high percentage for his county and another admitting a lower and confessing unlawful assessments in this respect, attempted to justify by pointing to equally bad conditions in other counties." That statement is near the top of page 36, and was warranted by our experience. There would have to be an explanation as to that. If you take the ordinary supervisor and ask him if he is assessing at cash value, he will answer yes at once; if, then, you take the sales and go over them and the date we have collected with him, why, he will admit he is not assessing at cash value as we understand it, and that is true in I should say three-fourths of the cases that I have talked with the supervisor. I have talked to a number, not as many as the rest of the commission, because ordinarily when we hold meetings Mr. Freeman has been president of the commission, until recently, and he made the talks, and the remainder of the commission made no talks to the supervisor, and the questioning was done largely by him up to the first of January; we usually allowed the president of the commission to do that work.

223 Q. I will ask you now having paragraph 11, Exhibit E attached to the bill before you whether that is a fair statement of the facts in your judgment?

A. It is as we talked it over at the time, that answer was signed, yes sir.

Q. From your experience as a member of the board, taking into account all the information you had acquired in every way up to the time of making that answer, what would you say as to whether the undervaluation was common and ordinary throughout the State?

Mr. BLAIR: I object to that as incompetent, immaterial and irrelevant.

A. I should say it was quite general in varying degrees.

Q. What was your experience with reference to the matter of the intentional undervaluation, how far did you find that that existed?

A. Well, that exists only, I think, so far as the supervisors watch each other to see how low each can get his township so it will pass the board of equalization. I don't remember of but one instance where

the supervisors have got together in this State and made a practical agreement as to the manner of assessing property.

Q. You do recall one instance?

A. I recall one, and that was newspaper report, and then was brought to my attention by one of the supervisors of Lenawee county, and also by Senator Helme that the supervisors of Lenawee county.

Mr. BLAIR, interrupting: I object to that as incompetent.

Q. It came to your knowledge finally in that case?

A. I asked one of the supervisors in regard to it; that was simply personal property.

Q. If a supervisor tries to keep his township down as low as his neighbor, and that attempt is quite general through the State, it indicates, does it not, that generally through the State that the cash value is not being used as a basis of assessment?

224 Mr. BLAIR: I object to that as a mere conclusion and an inference, also it is incompetent.

A. That would be my judgment.

Q. That is your judgment, isn't it?

A. Yes sir.

Exhibit D which is a certificate attached to the first roll appearing on pages 69 and 70 of Exhibit C recites *that* the sum of seventeen hundred and fifteen millions, which said sum according to the information and knowledge of this board is the total true cash value of the property upon which said ad valorem taxes were assessed for the current year for said State, county, township, school and municipal purposes. The board determined that that figure (\$1,715,000,000) was the true cash value of the general property of the State. I concurred in that result.

The difference between the total of assessed valuation and the real value as fixed by the board was something in excess of 296 millions and some dollars.

Cross-examination by Mr. BLAIR:

We ordinarily had a general talk with the supervisors, and Mr. Freeman made that talk. The statements of under valuation were made both at the general reviews and at the spring meetings. At the time of the general reviews there was a stenographer; it was his duty to take down what was said.

His report ought to show exactly what was said at those meetings. In the first instance, the supervisors would usually claim that they were assessing at true cash value; but when you took the sales value as prepared by the field men, and the consideration verified and submitted that to them, I think three-quarters of them would
225 admit that those sales, in a majority of instances, were a fair criterion of the cash value, and that they were not assessing at fair cash value.

If the sale value constituted the cash value of the property, they were not assessing at cash, as indicated by those particular sales that we examined. I presume one-quarter of them still maintain that they were assessing at cash value. Those figures are, however, relative. I did not charge my mind with it except in a general way.

Q. Now I suppose that in a considerable proportion of the instances where those admissions were made their counties were subsequently raised, weren't they?

A. Yes, sir, there have been a number—quite a number of them raised last year and this year.

Q. Where they had made those admissions in 1901 and 1900, since that time the valuations have been raised, haven't they?

A. Since 1900 and 1901?

Q. Yes sir.

A. Yes sir.

Q. In all cases so far as you know?

A. Do you mean in every county of the State?

Q. Where they made those admissions in 1900 and 1901?

A. Well, I haven't examined the records to see whether that is true or not, and I can not testify to it without the record.

Q. What do you think about it?

A. Well, the fact that the supervisors themselves this year have made a raise of forty millions would indicate that that was general throughout the State, that they were gradually coming to cash value or getting nearer to it.

Q. In the year 1902?

A. I think they raised over 1901 and 1902 gradually.

Q. To quite a large amount?

A. I can not say how much.

Q. That covered a proportion at least of the counties where the supervisors had made such admissions?

A. Those raises undoubtedly covered a portion of all the counties; some supervisors would raise and some would not.

226 Q. You made raises yourself?

A. Yes sir.

Q. That covered a proportion of those admissions that had been made?

A. In some counties, yes sir.

Q. Mr. Freeman has said and has fixed the number at at least five hundred. You have raised somewhere in the neighborhood of ten counties, haven't you—nine counties any way?

A. I could not tell that without going to the record.

Q. And isn't it a fact that wherever the supervisors in a county where you had a general meeting made admissions that their counties were undervalued that you undertook to raise those counties as soon as you could get to them?

A. Up to last year we attempted I think to take the counties we thought were in the worst condition, or up to this year and this year

we have taken the counties—we are trying to take the southern counties of the State, the larger counties and also our own counties, the counties in which the commissioners live.

Q. Then up to 1903 you had undertaken to take the worst counties of the State?

A. In the lower peninsula; I think the counties we covered either the assessments of the townships were bad or some city, and those were the ones we took.

Q. And that as you say was in the case of a county where they were the worst?

A. Yes sir.

Q. And the lowest county?

A. Yes sir; I think that is true. Kalamazoo, Jackson and Saginaw were bad, they were among the counties.

There are some parts of Genesee I think are assessed 90 per cent. or higher. The city of Flint, our examination showed, is in a pretty bad shape on account of their having left large pieces of property off the rolls entirely. This is indicated by our examination of this year. Mr. Dust admitted that this county was 85 per cent., and he is more familiar with it than I. I think the county, taken as a whole, is assessed somewhere between 85 and 90 per cent. The board held a special review in 1901 in Alpena county.

Could not tell if they added \$597,207 to the roll. We held a review in a portion of Antrim county, a review in Bay county in 1901, in Benzie county, at Frankfort, a special review, and special reviews in Branch, Charlevoix, Cheboygan, Chippewa, Emmet, Ingham, Kent, those were all specials.

Lenawee, Manistee, Ottawa, St. Clair, Tuscola, Wayne, Alger, Allegan, Calhoun, Charlevoix, Houghton, Harbor Springs, Petoskey, Mackinac Island, Jackson, Kalamazoo;

Mackinac, Macomb, Marquette, Oakland. There were but a few general reviews. Oakland county was special; there was perhaps a review in Ottawa; in St. Clair we reviewed the city of Port Huron. A general review was held in Saginaw; special review in Washtenaw, general review in Jackson. At a general review the property was placed at its cash value.

Exhibit C, report of the tax commission and State board of assessors for 1902, says that during the year 1902 (page 22) general reviews have been held in some portions of all of the following counties: Bay, Charlevoix, Jackson, Kalamazoo, Kent, Mackinac, Macomb, Saginaw and St. Clair, and that is true.

I think the reviews in Barry, Calhoun, Cass, Charlevoix, Clinton, Jackson, Kalamazoo, Lapeer, Livingston, Macomb, Montcalm, Shiawassee and St. Clair were probably special.

There was a general increase in the value of property after 1900, after we got the reports from the registers of deeds. Some large sugar plants and some cement plants were erected and street-railway properties were extended, and there was quite a considerable addition to the property of the State generally, which would account

to some extent for a portion of the increase in values up to 1902. There was some property that went out of existence which might tend to diminish that.

In my affidavit attached to the bill of complaint I meant four-fifths of those that made statements to me. A portion of the
228 affidavit read to witness as follows: "Deponent further says that he has been present at the examination of a large number of assessing officers of said State when said assessing officers have been interrogated as to their method of arriving at the assessed valuation of the property in their respective districts and that at least four-fifths of said assessing officers have stated that they have uniformly and intentionally assessed property in their respective districts at a certain percentage of its true cash value."

The four-fifths is my judgment of the number with whom I talked, not four-fifths of the assessing officers of the State. I presume that I have talked with probably about 100 or 150, and if it were 100, I should say I heard about 80 of them, and if it were 150, about 120, express the opinion the way I have already described,—saying at first that they did assess at true cash value; even the supervisor in my own township claimed that he had assessed at true cash value. I did not protest that he had assessed me too high. I might have protested that he assessed me too high in proportion to some of my neighbors.

George Pennoyer was supervisor of Flushing. I protested against his assessment for the reason that he had left all the watches and jewelry of the township off the roll. There is no question but that I made a protest to him about the assessment of my own property. It was not that my assessment was too high.

Made the affidavit attached to the bill of complaint on the 10th of June, 1903, at the request of Mr. Butterfield in the St. Clair hotel on the 9th or 10th of June, made it and signed it at the time it was presented to me, subsequently got it back, after Mr. Dust refused to make one. Think Mr. McLaughlin also refused to make one.

I got it back to consult with Senator Atwood about it. I had to leave on the morning train to attend Judge Durand's funeral, at the request of the family, and I told Senator Atwood to take the affidavit and think the matter over and let me know what he thought
about it. When I returned from the funeral to the hotel I
229 received a telegram from him stating that in his opinion the affidavit was all right, that was on Thursday, and I kept it until Friday morning before I delivered it.

When Mr. Dust and Mr. McLaughlin refused to sign the affidavit I thought there was some reason why I should consult somebody about it. I thought it was loaded; and in a way it was. I think that any taxpayer in this State is entitled to the knowledge of this office. I made that affidavit under those circumstances for that purpose. I did not understand that it committed me to the things the railroad companies would have to show to set aside the excess

of their assessment over what it should have been if the supervisors had honestly assessed.

I had already sworn to those facts in the bill of complaint prepared in the attorney general's office. The facts in the affidavit are copied from the answer in the board of education suit. That answer contained nothing about four-fifths.

(Section 11 of the answer read by witness.) The language is not the same, but practically the same statement is in the affidavit. The data referred to is somewhere in the office; there is a stenographer's record. If the stenographer's record shows that there were only two who admitted under-valuation, why there would be simply two and no more, if they admitted it in his presence, of course.

The 82.7 per cent. would be the percentage derived from dividing 1,438 millions by 1715 millions. I did not understand that there was any certainty about the 1715 millions; that was the best estimate that the board could make, some of the members being above and some below. No certain way that any man could figure out to the others that he was right and the others wrong.

"Q. You don't say anything in you affidavit with reference to the fact that you had raised valuations in parts of those counties, where the supervisors had made those statements?"

"A. The affidavit speaks for itself.

Q. Why didn't you, if you wanted to be fair towards the State, give the State the benefit of those statements that were in your knowledge?

A. If you had asked me for an affidavit to that effect I would probably have given it to you.

Q. Did you think I would be likely to come to you for an affidavit after you gave one to the Michigan Central?

A. No sir; by some things you said I should judge you would not. I signed the affidavit because I think the statements in it, so far as the percentages are concerned, are true, and because it could only be used for the purpose of obtaining a temporary injunction. If I were to do this over again, the affidavit would not be presented to me, and if it were presented, I would not make it. Although I believe the statements are as true as on the day that I signed it.

(Objection by Mr. Angell, to further examination of this character.)

It did not attract my attention that Dust and McLaughlin had refused to make it. I had turned it in and did not pay any further attention to the matter after I had talked with Senator Atwood.

Mr. Butterfield told me that he had affidavits prepared for all of the commissioners, and I understood that they were all to sign them. I do not think that I have been friendly towards the railroad corporations. I want them to pay the same rate of taxes that I do.

Redirect examination:

I protested against the assessment roll in our township in 1901, alleging the supervisor had discriminated against the village and in

favor of the county. I reside in the village, but my property was largely in the county.

I showed to the supervisor that he was assessing my farm that I bought from him at practically what I paid for it, and he was not assessing other farms in the same proportion. The reason that I filed that protest was purely political.

231 SAMUEL S. BIBBINS, sworn on behalf of complainant, testified as follows:

Direct examination by Mr. BUTTERFIELD:

I reside in Ypsilanti, Michigan. Aged 50. Am a farmer. Held the office of township treasurer four years; commissioner of highways a short time, and supervisor for seven or eight years; am at present employed by State tax commission as a field examiner.

I have been employed by the commission continuously since April, 1901, with the exception of a week. Assisted the tax commission in preparation of report to State board of equalization in 1901, contained in Exhibit M. Prior to August 1901, I visited four or five counties.

I commenced in the county of Berrien. From there went to Cass county, St. Joseph, Branch, Hillsdale and Saginaw. My work as field examiner continued after the meeting of the board of equalization. In the work prior to August 1901, we visited the counties and undertook to arrive at the valuation of the properties. Our starting point was mainly from sales furnished from the office and our attempt was to verify the sales.

What I mean by verifying the sales is to visit either one or the other of the contracting parties and ascertain whether the consideration was the actual price or not. And to ascertain from them whether they thought they had paid more than they thought it was worth, and as nearly as possible to ascertain the conditions generally under which they bought the property. We also examined properties which we called specials or pickups and arrived at an estimate of the value of those properties from information we received upon inquiry, exercising our own judgment as to their value. This method has not been amended particularly up to the present time, except that we are trying to make it more complete by visiting every section.

232 I visited every section in every township and got at least one description of realty from every section. The difference in work in 1901 and the present time being that with reference to our specials or pickups, we distribute the property examined all over the township, make it a point to visit each section, while in our examinations in 1901, we were not so careful to get those descriptions upon every section of a township. In 1902 I examined three townships in Clinton county, and ten or eleven townships in Calhoun county.

The three townships in Clinton county were De Witt, Bath and Victor.

Witness shown reports of field examiner for townships Bath, Victor and De Witt, Clinton county, same marked Exhibits O, P and Q, and identified by witness.

Mr. BUTTERFIELD: It is dated May 23, 1903.

(Objection by Mr. Blair, to any evidence in reference to reports.)

The examination was made approximately on May 23rd.

There is a column on Exhibit O, P and Q purporting to be the assessed value of 1902; we made no use of any assessed valuation for the year 1903.

(Under objection, by Mr. Blair, of incompetent, immaterial and irrelevant.) That it was all done after the average rate was fixed and after the assessment had been made and the testimony of these men at all events, except as it has been acted upon by the board of tax commissioners, is absolutely hearsay.)

Witness stated, I don't think I made any computations of the percentage to true value in these townships. That work has been done in the office.

From Exhibit O it appears that in the township of Victor there were 36 specials examined and 21 sales—total 57.

(Mr. BLAIR: We object to all that as incompetent, irrelevant and immaterial, and we object to all the evidence of this character given by field men with reference to examinations made in 1903, or the results of his work in 1903.)

233 The summaries upon the report marked Exhibit O are not my figures.

The assessed value of the sold property is \$34,550; verified consideration, \$47,413, and estimated value \$48,208. Of the other properties examined the estimated value is \$151,150, and the assessed value \$105,100.

On Exhibit P (township of Bath) the assessed value of the sales property is \$23,860; verified consideration, \$30,425; estimated value, \$36,725; the assessed value of the pickups is \$70,060; estimated value, \$94,950.

On Exhibit Q (township of De Witt) the assessed value of the sales property is \$43,940; verified consideration, \$66,640; estimated value, \$66,190; the pickups, assessed value, \$100,530; estimated value \$141,700.

(Under objection by Mr. Blair of incompetent, immaterial and irrelevant.) In my judgment I found the townships of Victor, Bath and De Witt to be assessed at less than the true cash value.

Exhibits O, P and Q offered in evidence.

(Subject to objection, by Mr. Blair, of incompetent, immaterial and irrelevant, and hearsay.)

The paper, entitled "Report of Calhoun county, 1902, verified sales, estimated properties, etc., Bibbins and Stone," marked Exhibit R, is the report of our examination of properties in Calhoun county, in which I examined 11 or 12 townships.

There are two or three townships that I didn't write, some of it is in Mr. Stone's and some Mrs. Stone's handwriting.

As I remember, I examined the townships of Athens, Battle Creek, Bedford, Clarence, Clarendon, Eckford, Lee, Le Roy, Marengo, Sheridan and Tekonsha.

Witness asked to refer to report for those townships and state the assessed value and the true value, which he does as follows :

234

Calhoun County.

Township.	Sales.			Pickups.		
	No. Ex.	Assessed value.	Verified consid.	No. Ex.	Assessed value.	Fieldman's value.
Athens.....	20	\$32,100	\$37,675	36	\$122,700	\$150,900
Athens village.....				6		
Battle Creek.....	3	3,775	4,750	38	132,050	162,450
Bedford.....	13	15,400	21,150	35	89,300	111,050
Clarence.....	8	8,120	12,250	36	59,025	89,075
Clarendon.....	9	12,380	18,040	36	74,470	100,550
Eckford.....	9	22,350	24,420	36	129,700	145,350
Lee.....	5	3,700	6,400	36	58,750	87,100
Le Roy.....	15	26,000	27,715	36	97,450	125,800
Marengo.....	5	14,000	16,380	37	141,550	163,300
Sheridan.....	12	19,600	22,825	34	113,100	133,050
Tekonsha.....	13	15,350	22,375	36	77,960	111,950

At our review I examined the sheet Exhibit J and helped to make up those figures in the sense of recording them here. I am satisfied that they are correct and represent my work in Calhoun county.

The third column, entitled "Per cent. of real estate examined," means percentage of values of properties in the township actually examined.

Offer of Exhibit J in evidence renewed.

(Objected to by Mr. Blair as incompetent, immaterial and irrelevant.)

Thinks Exhibit K represents the result of work in Clinton county.

Offer of Exhibit K in evidence.

(Same objection, by Mr. Blair.)

Examined two townships in Oakland county that were not acted upon by the commission in general review until 1903—Grove and Springfield. The figures reached in those townships are :

233

Oakland County.

Township.	Sale.				Pickups.		
	No. Ex.	Assessed value.	Verified con.	Fieldman's value.	No. Ex.	Assessed value.	Fieldman's value.
Groveland	8	\$12,550	\$14,800	.....	36	\$83,250	\$95,250
Springfield.	9	10,500	11,100	\$11,500	36	73,700	84,250

I aim to examine one parcel on each section. So far as the properties I have examined are concerned, I found that they were assessed at less than true cash value. I undertook to satisfy myself that the property I examined was a fair criterion of what was being done with respect to the other property in the township.

I saw the supervisor in each of those townships.

(Under objection, by Mr. Blair, as incompetent, immaterial and irrelevant.) I conversed with him relative to the value of his properties and got all the information I could from him, both as to the value of his township in general and the value of the properties I had examined or was about to examine. In some instances, I did not see the supervisor until after I had made the examination. In some instances I communicated to him the result of my examination and some not.

(Under objection of incompetent, immaterial and irrelevant and hearsay, by Mr. Blair.) Where I did communicate the result, he usually claimed that I had rated the properties higher than they were worth.

I do not recall any case of any assessor admitting that he was putting his properties down to what he believed to be some percentage of the true cash value less than 100—there may have been a case of that kind. I was assessing officer in the township of Augusta seven years continuously, with the exception of one, 1894 up to 1900. Since 1900 have been traveling quite extensively over the State working for the tax commission with reference to 236 taxation and giving attention particularly to the question whether the property was being assessed at its true cash value.

(Under objection, by Mr. Blair, as incompetent, immaterial and irrelevant and improper direct examination and leading.) From the counties in which I have done work, I think it is true, as far as my best judgment is concerned, that the assessing officers assess property less than its cash value.

Exhibit R, Calhoun county, offered in evidence.

(Objected to, by Mr. Blair, as incompetent, immaterial and irrelevant.)

Cross-examination by Mr. TOWNSEND :

I worked with Mr. Stone in Calhoun county ; he or his wife wrote up two or three townships, and aside from that, I wrote up the report.

I took the figures he gave me as representing his work in the townships he worked. We worked the county of Kalamazoo together, and I made out the entire report for all of our work in that county, taking his figures. Never did any of the computing percentages, etc. The clerks in the office did that.

I met most of the supervisors of the townships where I did my work. They were men that fairly represented their people. In a general way, I should say that I did not meet any of these men who I think were intentionally dishonest in their work, meaning that they were intentionally misrepresenting values. I was not acquainted with any of the localities in which I did work, previous to going into them as a field examiner. Did not examine property that I was acquainted with.

(Under objection, by Mr. Angell, as immaterial and irrelevant.) I think that a stranger acquainted with values in a general sense was perfectly competent to make assessments upon the values of those properties and perhaps fully as much so as any party
237 who was there, for the reason that in my opinion, in many instances, they were inclined to be conservative on estimates of actual value.

I attempted to get an average piece of the property as nearly as I could. Some of the properties examined were good and some were not so good. On this list there is property that I consider considerably poor on section 10.

Witness evidently shown paper subsequently marked Exhibit S. It is described as "rolling and hilly, no waste land, about five acres of wood lot." I made that \$1,400. What I mean by that is, it is not up to some other properties of the same size.

The first one of section 1 shows "good farm, not in the best condition, about four acres of marsh, about 14 acres of wood timber."

The next one "about 50 acres river flat land, balance very good. About 10 acres of wood timber, about 10 acres of bush lot."

The next one "about 15 acres of river flats, some wood timber, and the last one, very fine farm, but very little waste land, some wood timber."

If I made out report of the actual sales and of the pickups, the percentages on each would be different.

Though they came approximately close, from 3 to 8 per cent., or somewhere along there. It never varied as much as 20 per cent. Final percentage was computed in office. I think they took the aggregate and divided the assessed value by the actual value to produce the percentage. If there had been more sales, the rate would have been different, if the per cent. was very much different as to the pickups and the sales. Though I suppose the same relation

would have existed, at least approximately. If we had examined 10 sales instead of 9, the result would have been approximately the same, though there might have been some slight difference. It might be possible that it would be widely different, but that would not be a usual case.

Where we found an unusual condition of things and the purchaser paid more or less than we estimated the property worth, the value was fixed upon our judgment. If unusual conditions existed, 238 it affected the percentage, but we looked into these conditions to the best of our ability, and sales that did not represent values in our judgment, we eliminated. That is, where we found a sale from father to son or where there were gifts in connection with the sale, we didn't use it.

The properties which changed hands most frequently would be the lesser valued properties. It is true that there are trading properties in every community that usually change hands in trade, but when we understood that there was a trade in connection with a sale, we disregarded it as a rule.

Attention of witness called to Exhibit R (Calhoun county). Mr. Stone did the work in Albion. According to the exhibit there were 3 sales verified in that township and 32 pieces examined. It possibly might have been true that if we had examined two pieces on a section, we would have been likely to get a more nearly correct value than by examining less. Examining one average piece of property was a way of getting at the work of the supervisors in our judgment.

We seldom found the four quarters of a section alike. It would be quite likely to be very much different as to quality of soil, buildings and value of the farm in general, and if after examining one quarter we had found another quarter upon the same section assessed fully up to value or exceeding it, it might have affected the percentage. It would be an unusual case, as we made inquiries in regard to the property, that we did not take, and a great many times compared it with the property that we did take, and attempted to get an average value of the property. In some instances we looked at the other pieces on the assessment roll. In a general way we looked up more pieces of property, that is the assessments, than we took as pickups.

But did not look at anywhere near a majority of the land with reference to placing a value upon it. Some of the sections were divided up into a great many holdings and we examined a 239 very small percentage of the holdings. I am quite certain our examinations would not cover one-fourth of the area in a section.

Though in some instances it covers more, where we took 260 or 300 acres in a description. In Calhoun county, examined by Mr. Stone and myself, the acreage of the pieces examined in the township of Athens runs from 25 to 240 acres. There being 20 parcels of less, and 15 of more, than 100.

This would average far below a quarter of a section.

We devoted on an average of 3 to 4 days in the examination of a township. In a general way, we took time enough to satisfy ourselves that we were approximately correct in reference to the conditions of the soil, taking into account its location, and the value of the buildings and the proximity to market. We examined fully 12 pieces in a day. Put into the work perhaps 10 or 12 hours a day and perhaps not so many. All of the time was not spent on the road or in the township examining pieces. We spent some time with the supervisor also. Three days and a half would cover the time we spent in examining the land, obtaining information in regard to it, talking to the supervisor.

In the third column of Exhibit N (summary of Calhoun county, 1902), marked "Per cent. of assessed value to verified consideration," the per cent. 90.6 has reference to the sales and means that 90.6 is per cent. the assessed value as compared to the verified value of the sales. In the ninth column, the per cent. 85.3 refers to the combined value of the sales and pickups, being an average per cent. of the whole property examined.

The sixth column, entitled "Per cent. of assessed value to actual value," is the per cent. of the assessed value of the properties examined to their actual value. This is given as 84.8. The difference in per cent. is the result of the method I have stated, I suppose. The per cent. might vary somewhat with the method and depend upon the number of pieces sold and examined, and the judgment of the man making the estimate.

240 Think percentage might vary 6 per cent. but the percentages, according to the different methods, have been close. A more extensive examination would have been more liable to give a more accurate result. In my opinion, the more properties examined in a given district, would give a more accurate condition of values in that district, and I think if we had had time to examine all the pieces in a township, we could have been more accurate than by examining only a portion.

I don't know that I could get the actual cash value of the property of a township by the method used and don't know that I could get it by an examination of all the properties, because our judgment is human and it may not possibly have been the actual value after all the examination. It finally comes back to a question of judgment and our judgment is based upon the value of a few pieces and sales reported and such other information as we could get by inquiry, so as to determine the value of the township.

The report of Calhoun county is in my handwriting. I signed my own name and Mr. Stone's too. It was by his permission and authority.

If in examining 36 pieces of property in a township, estimated value is found to be \$150,000 and the assessed value \$100,000, or 66 $\frac{2}{3}$ per cent. of the true value, if in that same township a piece worth 50 or 60 thousand dollars assessed at 90 or 95 per cent. was taken as one of the 36 pieces, it would make a great difference in the

percentage resulting from the examination. The same thing holds true of any piece of property in a township of greater value than the pieces estimated.

It is possible that those things may enter into and impair the results found.

The county of Clinton was reviewed in 1903. From my actual knowledge, I cannot say that I have ever discovered any concert of action upon the part of the supervisors to work together upon some plan to assess at under cash value. I might answer differently on hearsay and common report.

241 I cannot recall the name of any supervisor or supervisors who were not assessing property as they honestly thought or claimed to think, was at the proper value.

Redirect examination :

Did not report to the tax commission what I learned by hearsay and common report in the communities visited.

I may have written something about general condition of the properties in a township—my report will show anything that I did write.

(Under objection, by Mr. Blair, of immaterial and irrelevant.) I think in some localities I got the impression from my investigations that the supervisor of a township was using substantially a uniform rule and treating his constituents all alike. I formed an impression from what I had learned in the locality or township as to whether the parcels examined and reported upon, represented a fair average of the condition of the entire township.

(Under objection, by Mr. Blair, as immaterial.) Do not recollect any instance where supervisor has acknowledged he was making use of any particular percentage, but in some instances I am quite sure that some have acknowledged that their values might be less than actual value. They claimed they were treating everybody alike.

(Under objection, by Mr. Blair, of immaterial and irrelevant.) They claimed that they were assessing the parties, all properties equal and without any discrimination, favor or punishment, or anything of that kind, and were intending to use all their people alike.

Recross-examination :

Exhibit S, being field examiners' report for townships of Groveland and Springfield, Oakland county, shown to witness.

242 "Q. I * * * ask you if you will take any two of those pieces of property there—take two consecutive pieces—that will be the better way, and see if when you look at the assessment of those properties, it is true that the supervisor under-assessed those properties at the same rate—any two of them?

"A. Well, from my findings, the per cent. of assessed as to actual value does not seem to be the same.

"Q. There are no two alike upon the page?"

"A. So far as the actual per cent. of difference is concerned, I think not.

"Q. So if they are under-assessed, every piece differed in its rate of under-assessment from every other piece, according to your finding there, is that true?"

"A. It seems so from the report here; that does not change the claim, however, of the supervisor.

"Q. It does answer the question that he is assessing them all at the same rate?"

"A. Well the same rate per cent. of value.

"Q. Of under-valuation?"

"A. Well no, I don't think it does. I don't think that according to my report that he is assessing in this instance at the same rate per cent. of under-valuation in each individual piece, it would not seem so to me."

243 A. H. ROLPH, sworn on behalf of complainant.

Direct examination by Mr. BUTTERFIELD:

I have resided at Escanaba, Delta county, 21 years. Was with Ford River Lumber Company two years; was employed by tax commission in June 1902, as field examiner. Never had any experience in the valuation of real property.

Never had any special experience which would fit me particularly for the work with the tax commission.

My first work was in Menominee in 1902 with Mr. Davidson, taking the data in regard to transfers from the records, after which we verified the sales and visited the various properties to ascertain if there had been any buildings erected, or whether the timber had been cut from the lands since the sales. Where we found the timber had been cut, we placed the then actual value of the property upon it as near as we could arrive at it.

(Mr. TOWNSEND: I make the same objection to the testimony of this man as to what he did in connection with this work as incompetent and immaterial, and I would like to have it understood as applying to all the testimony of this man of this character.)

During the year 1902 I also worked in Delta county; the work being of the same general character as that in Menominee.

I have before me a report of that work.

Witness asked to state from the report the number of parcels examined, including sales and pickups, the aggregate consideration, true value as found and the assessed value, following with the percentage of assessed to true value. Percentage given by witness from Exhibit T.

(Mr. TOWNSEND: We object to any testimony being taken upon this subject by this witness.)

Witness answers:

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Delta County.

Townships.	Sales.				Pickups.			
	No. Ex.	As'd val.	Verif. con.	F. man's val.	No. Ex.	As'd val.	F. man's val.	Per cent.
Baldwin.....	13	\$4,950	\$7,937	Same...	11	\$6,350	\$10,750	60.5
Bark River....	12	2,225	4,435	"	4	18,805	60,400	50.2
Bay de Noc....	8	2,905	5,905	"	15	8,000	12,940	60.4
Escanaba.....	15	10,210	21,523	"	10	8,600	15,050	
Fairbanks....	2	1,625	1,900	"	00			85.5
Ford River....	11	4,260	7,421	"	26	13,330	27,000	51.1
Garden.....	4	28,050	34,000	"	18			83.8
Maple Ridge...	7	2,690	5,275	"	00			51.
Masonville....	6	2,345	4,070	"	00			57.6
Nahma.....	6	1,950	8,290	"	2	20,140	81,600	24.6
Sac Bay.....	1	350	700	"	00			50.
Wells.....	14		8,385	"	16	23,390	41,085	56.9
Escanaba C'y..	130	114,928	184,254	"	84	262,940	418,750	62.4
Gladstone C'y..	38	27,945	38,868	"	17	10,590	13,215	72.2

(Mr. TOWNSEND: We want to object to the witness testifying from the sheet—Exhibit T—according to his own evidence he knows nothing about it and it is incompetent and immaterial.)

In speaking of pickups, I mean that we selected one or two descriptions in each section of land we visited and ascertained as nearly as possible their actual value. We placed an estimate upon the land and the buildings separately and in that manner arrived at what we termed the actual value of the property.

In selecting the pickups we did not select a description upon each section. In the township of Bark River, which is twelve miles in length, we took pickups in each part of the township but not on every section.

We took all the sales that had been recorded for a year in every case where there was a trade or where personal property was included in the sale, or where it was between members of the same family, we did not consider it. We eliminated everything except the *bona fide* cash sales.

In Delta Mr. Davidson and I worked jointly in a part of the territory and independently in a part. The report which I made
245 is correct as near as we could possibly ascertain the value of the properties.

It must have been completed about the first of September, 1902.

Supervisors themselves had raised the valuation of Delta county something over \$900,000 over last year's assessment and the tax commission made some further addition.

Cross-examination by Mr. TOWNSEND :

I first worked for the tax commission in 1901 and was sent into Chippewa, Menominee, Luce and Alger counties until in August. It was a hurried examination to get some information for the board to act upon at the time the State board of equalization met.

The tax commission sent out transcripts of the records of sales. We examined those properties, the nature of the sale, quality of the timber, and ascertained as near as possible the actual value of the properties in the several townships and counties.

I was recommended for appointment by Senator Fuller and hired on his recommendation. I put in three months in 1901.

When I went into Delta county I knew there had been a review there and that considerable property had been added to the roll. I knew nothing of my own knowledge of the figures on the sheet marked Exhibit T or about the percentage there shown and never figured any of the percentages.

The board of tax commissioners has never raised the townships that I examined the per cent. that I found they were under-valued. I found that the assessors put one value on the property, the board of supervisors another, and I still another, all differing.

(Under objection of Mr. Angell as incompetent.) If they had sent Stone or Bibbins or any of the other men up there, they
246 might have found a still different value. I haven't any question but what you might send a dozen men in there and they might look at the same property and their judgment might differ as to the value of the properties. I don't doubt that you and I can look at a piece of property and your judgment might be one thing and mine another. It is always a matter of judgment. The sheets from which I have been testifying were made by Mr. Davidson.

Mr. Davidson did the writing and after he had made a copy we compared it with the slips from which it was taken. You could not determine the value of the township of Sac Bay by examining one piece of land, as was done. Think it would not be a very reliable guide for fixing the value of that township. I don't think that four pieces is a safe guide to go by in fixing the value of a township.

I don't think that the examination of two pieces in the township of Fairbanks would be a fair guide. And you can't get an exact valuation of a township by examining any considerable number of pieces less than the whole. There might have been some of the pieces not examined assessed at value or more. We examined both resident and non-resident pieces, but found no difference in the assessment between resident and non-resident lands. The supervisor treated them about alike. If we could have found and examined pieces that were over assessed, it would have made a difference in the final result. The work which has been done by the supervisors since, has indicated that some of the property was assessed at more than its value.

I don't think that the examination of 4-10 of the value of a township, as was done in Masonville, Delta county, is a fair way of determining the value of all the property of the township. To a certain extent it would be a guide. Masonville was the most valuable township in the county. The valuation is made up very largely of one or two large properties. We examined the large pieces but did not include them in the report for the reason that we were not able to determine their value, and don't know whether they were assessed at their value or more. There was one piece assessed at \$180,000.

The only information that we got in regard to this was that 247 the book value was \$262,000. If it should turn out that the \$180,000 property was assessed at value it would wipe out the \$4,000 worth of property examined and raise the per cent. of the township very materially. We didn't attempt by our examination to determine the value of the property of the entire township. We determined the value of what property we could and the percentages were figured here, and what they showed we knew nothing about.

The object of our work, however, was for the purpose of getting at the value of the property of the township.

I think the examination in Baldwin township, Delta county, of 4.9 per cent. of the property would be safer in that district than any other we examined, because the supervisor had gone over every description of land and made estimates of the timber and placed the actual value of them in his assessment. We did not entirely rely on what the township officers did, but did to some extent. It would be impossible to examine every piece and rely entirely upon our own examination.

I would not consider that the examination of 4.9 per cent. of all the property in Baldwin township was a safe guide. I do not think that the examination of 20.3 per cent. of the property in Bark River would determine the actual valuation of that township, nor would the examination of 13.5 per cent. in the township of Bay de Noc. The same answer would apply in each case. The only way you can determine the value of the properties in a township is to have men go on and make an examination of each description. The percentage of property examined in Delta county is: Garden, 8. of 1 per cent.; Bark river, 20.3; Escanaba, 15.7; Nahma, 15.4; Bay de Noc, 13.5; Wells, 11.9; Ford River, 11.6; aside from this the rest of the townships are below 10 per cent. and one of them as low as .4 of one per cent.

I worked entirely alone in the townships of Bark River and Bay de Noc. I made the report in part of Escanaba City, part of Gladstone City, Baldwin, Bark River, part of Escanaba township, Ford River, Wells and Bay de Noc townships.

248 These reports are in my writing. Some of the information was gathered by Mr. Davidson and I wrote it down. We compared them afterwards.

In some instances I valued the lands and buildings separately.

Have had some experience in building. Mr. Davidson and I would differ upon the value to be fixed. Where we could not possibly agree upon a valuation, we would try and find some party who was conversant with values and get his opinion upon these points. I do not know that there were any times that it was not possible for us finally to get together. I don't think we ever varied two hundred dollars upon a property except in the city of Escanaba.

I was acquainted with the property there and he was not. I considered from the fact that I was acquainted with the property, that I was better able to judge of it than he. A stranger to a locality is not as good a man to judge of the value of property as a man who is acquainted with it and has a general knowledge of values. About 1871 I was engaged with an architect for five years.

I kept his books and looked after his outside business generally. I was secretary of the building department of Chicago for three years. This was office work, comprehending the examination of plans to determine whether they complied with the building ordinances.

My experience with the Ford River Lumber Company was as bookkeeper but I worked in a lumber yard before entering the army and the first summer after, I inspected lumber on the Chicago river, being less than twenty years old at the time. Have never worked in the lumber woods nor scaled any logs. Never lived on a farm to any extent.

Never estimated the value of any timber tract and never had any experience in estimating such values and don't feel myself competent to do that.

The lands of the counties which I examined were formerly timber lands. There is some scattering pine left in those counties.
249 The lands where there was hardwood and cedar, ten years ago were considered practically worthless, but today are very valuable properties.

In verifying considerations, I went to the parties to the transaction, told them the purpose for obtaining the information, and verified the sale in that way. The consideration in the deed would always be the proper consideration. I never had any reason to suppose that the party asked about the transaction, was not telling me the truth about the consideration and never found it necessary to ask anybody else.

What was told me by one of the parties to the transaction, I took for the truth. And there were no exceptions to this as I remember. That is the reason that my verified considerations correspond exactly with the true value.

Where extraordinary conditions existed, we investigated those from other sources, as the neighbors or parties conversant with the deal. We talked to the supervisor and ascertained from him what the property was assessed at and what he knew of sales, and very often asked him if he knew the values of the properties and in many cases he did. They were willing to help us usually. *They agreed*

that the properties sold for the price named in the deeds but would contend that the parties had paid more than the property was worth; that was the universal contention of the supervisors. They believed that the property sold for more than it was worth.

This was not confined to timber lands. If it were timber lands, I could not tell if it was sold for more or less than it was worth, not being familiar with them, and so far as my personal knowledge went, it might have been sold for more than it was worth and the supervisor may have been right about that.

There were not very many instances of eliminating a sale. One or two, but not a great many. And where personal property was included and it was impossible to get at the selling price of the real estate, we eliminated it entirely.

"Q. Did you meet any of the supervisors?

A. Yes, sir.

250 Q. Nearly all of them?

A. Yes, sir.

Q. How did they compare with the rest of the men in the community as to ability and fairness and intelligence?

A. I think, as a rule, the supervisors in the counties in which I have worked are intelligent men, men of very good judgment, and men who, if they wished to or if they had the time to make a thorough examination of all the townships, would assess them at pretty nearly their cash values, but, as I stated before, there are townships that are composed of from four to six or eight, and in one case, of sixteen surveyed towns, it is in a wild country, very few roads, simply an old logging road that was made at the time the pine was taken from the land and grown up with brush since that time, and it is impossible for a supervisor to get onto every description in his township to ascertain its actual or anywhere near its actual value.

Q. If they could do that or had time to do it, you think they would give a good, fair assessment?

A. I do.

Q. You think they are honest men with good, honest intentions?

A. Yes, sir; I have only met one or two that I had reason to suppose were trying to evade their duty in the matter at all.

Q. You think the rest were honest men, trying to do their duty?

A. Yes, sir.

Q. From the fact they lived in the community, if they had the time and it would have been possible, they would have made a fair assessment?

A. I don't doubt it, sir.

Q. Didn't they have as much time and wasn't it as possible for them to get at the value as it was for the field men that went up there?

A. No, sir; you take a man with four to six townships and he has got thirty days to make his assessment; all he can do is to copy his roll unless the township authorized him to go and employ a man to

examine the properties. I know one instance in one township where property in former years had been assessed at \$150, last year it was assessed at one thousand. Other property in that same township that had been assessed at two or three hundred dollars, was assessed as high as eighteen hundred dollars, and in the same town there were other properties that had been assessed at four hundred dollars that were reduced to one hundred dollars.

251 Q. Do you mean to say that anyone of the field men ever had thirty days to put into a township—did you put in thirty days in any township?

A. No, sir; and we didn't have any assessment roll—

Q. (Interrupting.) Did you put in ten days?

— No, sir.

Q. Did you put in to exceed three or three and a half in any township?

A. Three and a half or four days usually.

Q. And lots of those places you could not get through on account of the wet weather and the lack of rubber boots?

A. No, sir; I can take you into townships I don't think you could walk through in six months.

Q. So I say his opportunities weren't any better than the resident supervisors for determining the value, or as good?

A. I presume not; no, sir.

Q. As the supervisor living in that township I mean?

A. Yes, sir.

Q. And in a great many instances I suppose he had been supervisor for a number of years, according to your statement?

A. Yes, sir; some of them have been."

(Mr. TOWNSEND: I desire to move to strike out all the evidence of this witness which is based upon the reports which he did not make himself.

Secondly, I move to strike out all the evidence based upon the reports which he did make in part, for the reason that he cannot separate what he made from what his fellow workman, Davidson, had made.)

Re-direct examination:

The commission held a general review in Menominee county in the spring of 1903. Mr. Davidson and I worked together in Menominee city.

I worked in Charlevoix county this summer, in all respects in practically the same manner as the previous work.

(Mr. TOWNSEND: I object to this testimony on the ground that it is incompetent and immaterial and subsequent to the fixing of the rate.)

252 Our work showed that some of the townships in Charlevoix county had been undervalued by the assessors. The board, I

think, has succeeded in convincing the assessing officers that my report was reliable. The board did not give me instructions as to the manner and method of carrying out my work. I got this from Mr. Davidson. I have not seen any instructions in writing or print, and oral instructions didn't in detail point out exactly how I should carry on the work. Did not specify the number of parcels to be examined outside of the sale property, but that was left to my judgment. And did not call upon me to ascertain the aggregate value of all the property in the townships.

Nor the percentage of assessed to true cash of all the property in a township. It simply related to the pieces of property that I examined. It was our intention and object in selecting parcels for pickups to select parcels which would fairly represent the average condition of the township. I made the selection independent of the supervisor's judgment. We had conferences with the supervisors after we had prepared our figures, and in some cases communicated them to him. We always inquired of the supervisor whether he had a uniform rule of treating the people in his township. And from our inquiry, we found that as a rule the properties were assessed on the same basis according to his knowledge of the properties.

I think, with very few exceptions, the supervisors made an honest effort to assess the property of their townships upon the same percentage or same basis.

In the pickups I endeavored to include parcels which represented a fair average of the condition of the township. The valuations given by us in our report to the commission were a fair representation of the other property of the township from our best information and knowledge. I don't think the sales or parcels represented a

fair average of the condition of the balance of the township.
253 In most instances we found that the properties were assessed on the same basis, the same percentage, and this applied in every township we examined.

Recross-examination :

When I say I selected an average piece, I mean that if I found a section that was about the same all the way through, we would select one or two descriptions in that section. If I found a section where some of it was cleared and converted into farms, we would take one or two descriptions of the farm property and one or two of the other properties, whatever they might be.

In Delta county there are spots of good timber and poor timber, places where there are poor farms and good farms. We took some of each. We didn't select any of the factories or manufacturing industries in those districts. In the townships where there were farms there were no manufacturing properties, with the exception of Masonville, and in townships where there were manufacturing properties, there were only saw mills. We got a saw mill occasionally and made a report of it.

I don't think that the supervisors in the different townships assessed alike. In the same township, I think the supervisors assessed their property at the same percentage.

I don't think that by looking at two pieces in a township you could determine that the supervisor assessed it all at the same percentage. In some of the townships we examined, there were varied interests, such as Garden township.

“Q. I want to call your attention to Garden township; that represents your work, does it?”

(Counsel presents papers to witness.)

A. Yes, sir.

Q. Now the first description there—what does this part refer to?

A. That was the number of the slip accompanying the reports.

254 Q. You found that was assessed at what?

A. Eight hundred dollars.

Q. And what did you find the value to be?

A. Eight hundred and fifty dollars.

Q. The next piece, what did you find that to be?

A. It was assessed at \$1,300.

Q. What did you find the value to be?

A. \$1,400.

Q. Had the supervisor assessed those in the same proportion?

A. Well, not exactly; no.

Q. Was it anywhere near?

A. Yes, sir; not very far off.

Q. Can you figure out the percentages of those two and tell me how they are assessed?

A. It would be 94 and a fraction, and the other is less than 93.

Q. Now take the last one there, please, five hundred and divide it by eight hundred?

A. It would be 62.5.

Q. One was assessed at 94 per cent. and the other at 62 per cent.; what is the difference?

A. It would be 32 per cent.

Q. He didn't assess those two at the same ratio?

A. No, sir.

Q. One 62 per cent. and the other 94. Then it is not true that he assessed all of the property at the same ratio, is it?

Mr. BUTTERFIELD: He didn't say that he assessed it all at the same ratio.

Mr. TOWNSEND: He is testifying to that now.

Mr. BUTTERFIELD: You are misquoting it, and he has a right to have it correctly quoted.

Q. Is it correct or true that that man assessed the property at the same ratio?

A. No, sir; not in that case he didn't.

Q. You didn't find then that he assessed all of the property throughout at the same ratio?

A. We found that he endeavored to do so.

Q. What made you think that?

A. We believed that that supervisor in that township as well as in the other townships were assessing the properties on the same basis. They were not discriminating against any class of property either in favor of or against.

Q. Because you found, as I understand it, to the best of your judgment that they were assessing property at its cash value as they understood it?

A. No, sir; they were not, and they would admit they were not.

Q. Didn't you testify this forenoon that with the facts before them, not being any better acquainted with their lands than they were, they were assessing the different properties at the cash value as near as they could?

A. No, sir.

Q. You didn't testify to that?

A. No, sir.

Q. Are any two of those assessed at the same percentage?

A. No, sir; not exactly the same percentage.

Q. I show you now another leaf from that same report of Baldwin township; what is the assessed value of the part marked 'Ed Rabideau'—what do you find that assessed at?

A. At six hundred dollars.

Q. What did you appraise it at?

A. Nine hundred dollars.

Q. What per cent. is the assessed valuation of the appraised valuation.

A. It would be 66 per cent.—66 I mean.

Q. What is the per cent. of the first one upon there marked 'John Brunait,' what is the assessed value?

A. Sixty per cent.

Q. And what is the assessed value of the next one here?

A. Fifty per cent.

Q. There is 16½ per cent. between those two?

A. Yes, sir.

Q. Here is one assessed at \$500 and you appraised it at \$850?

A. Yes, sir.

Q. Figure that out and tell me what that per cent. is?

A. Less than 49 per cent.

Q. So that the supervisor was not assessing all of the property at the same ratio according to your value, was he?

A. Not according to that report, no, sir; not upon every piece of property, but the general assessments are upon the same basis as near as his judgment would dictate."

After examination witness says that the same condition, namely,

the difference in percentage, runs through all the sheets of his report.

In Garden township there were four sales which showed an average per cent. of 83.82; two of those pieces were assessed, one 256 at 93 and the other at 94 per cent. I have no reason to believe that there were any more of the 93 and 94 per cent. pieces in the township.

If I had picked up a few more of those, it would have reduced the average.

I do not consider that we were qualified to estimate timber lands and so did not make any estimate of the timber lands and could not tell whether they were assessed high or low, except from our general knowledge and the information we could get.

I did not state that we took an average piece of all the property in a township. We would take an average piece in each section that we visited. Where we did not visit the section, we had no personal knowledge. We could not visit half the sections in one of those townships if we worked there a year and devoted all of our time to it, not to make a thorough examination of every description. I got an average as near as I could. I could not swear it was an average of the township.

257 ARTHUR PATRIARCHE, a witness produced and sworn on the part of the complainant, testified as follows:

Direct examination by Mr. RUSSELL:

Q. Where do you reside?

A. In Detroit.

Q. What is your business?

A. General traffic manager of the Pere Marquette system.

Q. How long have you occupied that position?

A. For three years, with the present system.

Q. What was your business before that time and what position did you occupy?

A. I was traffic manager of the Flint & Pere Marquette railroad ten years.

Q. Will you please state briefly what has been your railroad experience.

A. From ticket agent to my present position, covering a period of 28 years.

Q. Have you been engaged in the service of different railroad companies.

A. With the exception of one year I have been with the same company.

Q. And all of your service has been in the State of Michigan

A. Yes sir.

Q. And one year you were with the Michigan Central?

A. Yes sir.

Q. And the rest of the time with the Flint & Pere Marquette, and now with the present Pere Marquette system.

A. Yes sir.

Q. Will you tell us then the extent of your work and
255 duties in your present position.

A. The duties of the general traffic manager is the authority and supervision of the passenger and freight departments of the corporation.

Q. In the matter of rates, and in the conduct of the business of the freight and the passenger traffic in all of its branches upon a railroad, that is under your supervision and control?

A. Yes, as to the traffic department.

Q. With respect to the handling of the business in all respects except in the operation of the railroad.

A. That is right, yes.

Q. And with respect to the operation of the railroad, I take it, you are brought into close union and conference nearly all the time are you not?

A. Yes sir.

Q. Now in determining the rates, for instance, in freight traffic, to what extent do you have to have knowledge of the conduct of the operation of the road?

A. In determining the rates?

Q. Yes, in determining the rates in your business?

A. Well, we would have to have knowledge of the conditions that surrounded the cost and expense of the operation in the territory, the locality where we were going to establish those rates, or in the origin of the traffic itself.

Q. Then as to the time and the rate of speed, etc., at which the trains can be moved.

A. Yes sir.

Q. Is this true also in respect to the passenger traffic?

259 A. It is.

Q. So that in your position you can speak as one having authority with respect to the conduct of the tariff department and one having knowledge of the general conduct of a railroad?

A. I think so.

Q. And its operation?

A. Yes sir.

Q. Are you familiar with the construction and operation of the so-called interurban roads of the State?

A. I have a general knowledge of the construction and operation of the interurban roads.

Q. Can you tell us about how many miles of so-called interurban street railways there are now constructed and being operated in this State?

A. I haven't got the actual mileage, I have a knowledge of the system and a knowledge of the mileage.

Q. Can you describe to us generally where the roads within your

knowledge are located, and how they are constructed, those that are now in operation or were in operation in the year 1902?

A. The Detroit & Northwestern operates to day between Detroit and Flint, and a branch out to Northville, and there is one line operating between Detroit and Port Huron; there is another line operating between Detroit, and Mt. Clemens, a line between Detroit and Pontiac; a line between Detroit and Jackson; a line between Grand Rapids and Holland, and a line between Grand Rapids, Muskegon and Grand Haven; and there is some mileage west of Jackson that I am not familiar with there; there are links in there that I don't know very much about. There is a line operating between Detroit and Wyandotte and *and* possibly another line that will be operating between Detroit and Toledo.

260

Q. There was one in 1902 from Monroe to Toledo.

A. Yes, between Monroe and Toledo that was in operation in 1902.

Q. Those that you have mentioned are all that you can now recall?

A. There is a line between Bay City and Saginaw.

Q. Those are all that you can recall from your personal knowledge?

A. Those are all that I can recall.

Q. Do you know whether the roads that you have mentioned were engaged in the year 1902 and are now, in the transportation of passengers and freight?

A. I cannot say they all were, but I can say some of them were

Q. Which ones would you say are engaged in the transportation of both passengers and freight, and were in 1902?

A. The Detroit & Northwestern, the Detroit, Ypsilanti & Jackson, the Grand Rapids & Holland, the Bay City and Saginaw. Those are the roads that I know are actually engaged in carrying passengers and freight.

Q. Did you mention the Detroit and Pontiac?

A. I did not, for I am not so sure upon their freight features

Q. You mentioned the Detroit & Northwestern?

A. Yes sir.

Q. In the conduct of the freight and passenger traffic on the roads that you mentioned that were in operation last year do they enter into competition with the railroads, the steam railroads of the State?

A. They do.

261 Q. Now describe to us just how that business is done upon the interurban roads in comparison with the railroads—is it practically the same?

A. Their warehouses in the city of Detroit are located in much the same locality as that of the steam roads. Their vehicle of transportation has the character of one of the baggage cars of a steam road, that vehicle is handled at a warehouse just the same as a box car is handled at the warehouse of a steam road; it passes over the tracks under the trolley service of the city street railway companies

and it is the same character of service that is in Grand Rapids in connection with the Grand Rapids & Holland railroad and with the Grand Rapids, Muskegon & Grand Haven. Between Bay City and Saginaw, their freight service is rather limited to the capacity of a portion of the passenger vehicle, or what we call the baggage department. Their services, as far as they go, is considered superior to steam road because their cars are more numerous; for the short haul their tariff rates are less than that of the steam roads, and where the steam road is in competition with the electric road we usually lose the package business.

Mr. TOWNSEND: I want to object to this testimony as incompetent, immaterial, and I can not see as yet that it has anything to do with the case.

The WITNESS: The electric roads are not at the present time engaged in the transportation of car load freight as it is understood by the steam roads, so that we find the competition concentrated to that of package freight, which would be in the line of groceries, hardware and produce less than carload shipments.

Q. Was there not some little business done in carload lots as far back as 1902, in respect to shipments of fruit and fuel, with interurban service?

A. In the early part of 1902 one of the companies was engaged in the transfer of fuel which they received in a car of their own and which was transferred from a car of the steam road.

Q. Then, is there any par-tical difference in the shipment of package, or was there at that time, between the shipment of package freight by a shipper over any of these street interurban roads and a shipment made over a steam road between the points reached?

A. There was no difference in the methods of transportation except in the service.

Q. You have already spoken of the service as being somewhat more frequent and generally at a lesser rate on the street interurban road?

A. Yes sir.

Q. Now in respect to passenger business, what have you to say as to the comparison?

A. The passenger business as to the short haul, has been practically absorbed by the electric railroads, the service is more frequent and in many cases, the fare is very much less.

Q. So that you say with respect to both the freight and passenger traffic between the points reached on the steam roads and the street interurban roads, there is a direct competition?

A. Yes sir.

Q. And there was a direct competition?

A. Yes sir.

Q. Have you found with respect to the construction and extension of the street interurban roads that this competition is increasing?

A. I find it is, particularly in the passenger department.

Q. Do you know whether upon the street interurban roads mail and express matter is carried the same as upon the steam road?

A. I haven't learned that.

Q. You don't know as to that?

A. No sir, I do not know.

Q. The Detroit & Pontiac road, does that come into competition with your own system of road, the Pere Marquette?

A. No sir.

Q. I understand you are not familiar as to the way business is conducted in Detroit with reference to the business conducted on the Detroit & Pontiac road?

A. No sir.

Q. Do you know under what laws and under what form of organization the street interurban roads are doing business?

A. Well not very clearly, not enough to make any statement on it.

Q. Do you happen to know whether the roads you have mentioned are organized under the general railroad law?

A. I understand they are not.

Mr. TOWNSEND: We object to that question and answer as incompetent and immaterial. None of this evidence is the best evidence that can be produced, and it is largely hearsay.

Q. You have spoken of the vehicle in use upon these roads. Now can you tell us as to the construction of the roads, as to whether they are railroads in which the property is devoted to the business of transportation in substantially the same manner or in the
264 same manner as that of the steam railroads?

A. I understand it is standard gauge, heavy rails and standard ties.

Q. And operated as you have stated outside of municipalities so as to carry stuff to and from between one village or one town and another?

A. Yes sir.

Q. For distances as far, as you have stated, as Detroit is from Port Huron?

A. Yes sir.

Q. So that you can say the property of these companies is devoted substantially to the same business as that of the steam roads?

A. Yes sir.

Q. Does the road with which you are connected operate sleeping and chair cars?

A. We operate chair cars, not sleeping cars, that is, of our own.

Q. I mean belonging to your own road?

A. Not to our own road.

Q. When did your road cease to handle and operate its own sleeping cars?

A. In 1901.

Q. And what did you substitute for your own cars?

A. We employed the Pullman sleeping cars.

Q. What chair car service do you operate upon your road ?

A. We operate quite an elaborate chair service over pretty nearly the entire service.

Q. How is that business conducted ?

A. The company owns its own cars and employs its own porter, all the appointments are owned by the company and we
265 collect the fares.

Q. That is an extra charge ?

A. Yes sir.

Q. Over and above the regular fare ?

A. Over and above the regular fare.

Q. And that charge varies according to the distance that the passenger occupies the chair ?

A. Yes sir.

Q. Do you know whether any of the railroads in the State in the year 1902 operated their own sleeping cars ?

A. I think there are two roads in the State.

Q. What are those ?

A. The Canadian Pacific sleeping cars pass through Michigan and it operates in and out of Detroit, and I understand the Duluth South Shore & Atlantic have sleeping cars of their own which they operate.

Q. The Duluth, South Shore & Atlantic is practically a branch of the Canadian Pacific operating in Michigan, isn't it ?

A. Yes sir. It is an independent company but owned by the Canadian Pacific.

Q. Do you know with reference to the Soo line ?

A. I don't know anything about it.

Q. By the Soo line I mean the road extending from Sault Ste. Marie through Michigan to St. Paul and Duluth.

A. I don't know, I never heard of their operating them.

Q. Do you know of a chair car service upon other railroads in the State aside from the Pere Marquette, operated by the railroad companies with their own cars ?

A. Two of them.

Q. What are those roads ?

A. The Ann Arbor road and the Grand Rapids & Indiana.

Q. What is the length of the line of the Pere Marquette
266 system upon which chair cars are so operated by that company ?

A. I should judge in the neighborhood of 1500 miles of our system operates chair cars.

Q. And what about the length of the Ann Arbor road of which you spoke ?

A. Well that would be their entire mileage from Toledo to Frankfort, I don't know what the mileage is.

Q. The other road of which you spoke is what ?

A. The Grand Rapids & Indiana.

Q. And the full length of that road ?

A. I think so, yes sir.

Q. Now, what is the arrangement between the railway companies and the Pullman Palace Car Company with respect to the operation of sleeping and chair cars?

A. Well, as far as I know they are varied; they vary all over the country.

Q. Do you mean vary with respect to the amount paid the Pullman Company?

A. Yes sir.

Q. But with respect to the business as it is conducted by the Pullman Company it is substantially the same?

A. It is the same practically.

Q. Tell us what the Pullman Company undertakes to do?

A. They undertake to furnish a car and porter service and all its appointments and that car is operated over the route of one or more
267 railroads from a point of origin to its final destination and the car is usually taken care of by the railroad company as to furnishing water and looking after its running gear, the Pullman Company collects its own fares and the railroad company has no interest in that beyond the railroad fare of the passenger that occupies the car and their compensation varies according to the systems that are employing the Pullman car.

Q. What difference is there with respect to the conduct of the business between the operation of the sleeping cars on the roads which you have spoken of by the Pullman Company and the operation of the chair cars on the roads you have spoken of?

A. There is no difference, we perform in the operation of our chair cars exactly the same service as would be performed by the Pullman Company if it operated a chair car.

Q. Do you know about the rate charged, whether that is substantially the same?

A. The rate of the Pullman Company is higher as a tariff than the rate we charge over the same distance.

Q. Is that generally true to your knowledge?

A. It is.

Q. Is it true generally on the other roads of the State?

A. Yes sir.

Q. And as to the character of the car and its equipment, the chair cars on your road and the Pullman, what difference is there?

A. The Pere Marquette railroad considers that it has the finest chair cars there is, and therefore we would say the service was superior.

Q. Then the accommodation as furnished to the passenger
268 for the extra fare on the Pere Marquette railroad and by the Pullman Company in its character is substantially the same, but you think somewhat more commodious on the Pere Marquette?

A. Yes sir; I think the appointments are a little finer.

Q. With respect to the sleeping cars as they are operated on the

railroads that you have mentioned and the cars as furnished by the Pullman Company, what difference if any is there?

A. Well, in the Pullman service in sleeping cars it is considered a superior one to that of the individual service of a railroad company; that is the position we took when we operated our own sleeping cars.

Q. In what respect is that?

A. The car is finer, the berth is larger and altogether it is a better constructed car; and the passenger would feel that it is a safer car to ride in; we always considered the Pullman sleeping car service better than our own.

Q. So that you would say there is a difference in the convenience and that the accommodation of the passenger is somewhat better served by the Pullman cars?

A. Yes sir.

Q. And isn't it a fact with respect to through service where a car passes from one railroad to another that the convenience of the travelling public is much better served by a through line such as the Pullman?

A. A great deal better, and it can only be obtained by the operation of a Pullman car.

Q. The construction of the cars is substantially the same, as I understand you to say, and the character of the service in the chair car service for which an extra fare is charged and in the berth and section service given to the passenger for which an addition
269 to the railroad fare is made.

A. Those are alike yes sir.

Q. So you say that the business as conducted by the Pullman Company in respect to furnishing sleeping car accommodation and chair car accommodation, is substantially of the same character as that furnished by the railroad which you have mentioned in the State?

A. Yes sir.

Q. In the manner you mentioned?

A. Yes sir.

Q. There is this difference: That in the one case the cars are owned by the railroad companies and operated entirely by them, and in the other case the cars are owned by the Pullman Company and the stipulated amount is paid for the use of the cars, or some other arrangement is made whereby those cars will run over that system of railroad and the Pullman Company allowed to collect its own fare for such chairs and such sleeping car accommodations.

A. Yes sir.

Mr. WYKES: I move to strike out the testimony of this witness in all matters except as to such that he has related with reference to the Pere Marquette. As to all other matters, I ask that the evidence be stricken out on the ground that it is not the best evidence, that it is largely a matter of conclusion and hearsay, and not given from his own knowledge.

270 Cross-examination by Mr. WYKES:

Q. The interurban business is practically new in this State, isn't it?

A. Yes, a few years.

Q. You have enumerated a list of companies which are doing that class of business. Can you tell us when they commenced doing business in this State?

A. Not each one of them.

Q. Enumerate as many as you can.

A. I can tell you when the Detroit & Northwestern began a freight business, if it is freight you want.

Q. I mean the entire interurban business.

A. Well they began doing their freight business in 1902, and the Grand Rapids & Holland began doing its freight business in 1903.

Q. Can you give about the exact date in 1902?

A. No sir, I cannot.

Q. Can you give it approximately?

A. Well I should say as to the Grand Rapids & Holland that they commenced doing their freight business about the month of May or June 1903. Their business began as far as we know after the opening of the steamboat line from Chicago to Holland.

Q. As to the other lines you mentioned, when did their business begin?

A. I can only say as to the year.

Q. 1903?

A. No sir. The Detroit & Northwestern in 1902.

Q. Now are there any others?

A. There is the Detroit & Jackson.

Q. They are doing a freight business also?

A. They have been doing a freight business for some years.

Q. Can you give about the date of that?

271 A. No, sir, I can't give the date; it is one of the old companies.

Q. How about the line that runs from Monroe to Toledo?

A. That is not in the freight business.

Q. Are there any lines which go beyond the boundaries of the State which are doing a freight business?

A. I think not.

Q. This line between Toledo and Monroe is the only line which passes the boundaries of the State to your knowledge.

A. That is the only one to my knowledge.

Q. Do you know whether it is a continuous line from Monroe to Toledo?

A. Yes, sir; it is, from Monroe to Toledo.

Q. What is the mileage of that?

A. Well that is about twenty miles.

Q. What is the mileage of the Detroit & Northwestern?

A. I couldn't say.

Q. What is the mileage of the Holland Interurban road?

A. Well, I should say in the neighborhood of 23 or 24 miles.

Q. Do you know of any others that carry freight?

A. No sir, not any others beyond what I have already stated.

Q. Have you the total mileage of the interurban roads?

A. No sir.

Q. Can you approximate it?

A. No, sir; I couldn't give you any idea of it.

Q. Have you any data which would indicate the total value of the portion used in carry- freight?

A. No, sir; I couldn't give you any figures on it at all.

Q. Have you any knowledge of the manner in which those roads acquired their right of way?

A. Only from hearsay.

Q. Do they possess the right of eminent domain?

A. Well, that I couldn't answer.

Q. Isn't it true that practically they are constructed over private rights of way?

A. Some of them are.

Q. Purchased and not condemned?

A. Some of them are.

Q. You stated did you not that there were none that you had knowledge of that were organized under the general railroad law.

A. Not the electric roads that I have any knowledge of.

Q. They are organized generally under the street railway laws?

A. Whatever the law is; I don't know what it is.

272 Q. Do you know anything as to the extent of the interstate traffic of this line between Monroe and Toledo?

A. Oh it is very slight.

Q. Do you know as to the method of fixing the rates of these interurban roads?

A. No sir, I do not.

Q. Isn't it a fact that they are fixed by the local boards of supervisors, or the city councils through which, or in the municipalities in which the roads run.

A. I couldn't say.

Q. Haven't you knowledge that it is ordinarily made a matter of contract between the railroad company—

A. I never heard of it upon that basis.

Q. The business that is done by these roads is purely local in character?

A. Yes sir.

Q. While some of it is between cities they stop, do they not, at any crossing, at every place, anyone can go and flag them?

A. Is that in the transportation of freight?

Q. In the transportation of passengers.

A. In the transportation of passenger- I think they have their fixed stations and stopping places.

Q. About how frequently do those occur?

A. Well I should say every mile or two miles or three miles, they vary on the different roads.

Q. Isn't it true it occurs on every crossing?

A. They have passed me on a crossing.

Q. How about the rapid railway, have you any knowledge of that?

A. No sir, I have not, I never have been at an intermediate station.

273 Q. Now the motive power of those roads is different from the ordinary railroad, isn't it?

A. Yes, entirely different.

Q. They run entirely by electricity?

A. Yes sir.

Q. And what sort of a crew does it take to run one of these trains?

A. A motorman and a conductor, so far as I can say.

Q. On one of the ordinary railroad trains what crew does it take?

A. It takes the engineer, and fireman to run the locomotive, and it takes the conductor and one or more brakemen to manage the train.

Q. Now the steam train is made up of a number of different cars, isn't it, while the interurban runs a single car ordinarily?

A. A single car, yes sir.

Q. In a large number, if not in the most instances, the interurban road runs along the street and is occupying a part of the highway, while that is not true of the ordinary railroad?

A. That is right.

Q. You said something about the carload lots that were carried by the interurban roads. Have you any knowledge of the extent of this business of carrying carload lots?

A. I think it is very small, so far as the interurban roads are concerned.

Q. Isn't it a fact that where they do carry them in carload lots that is a very exceptional case.

A. Very exceptional cases.

Q. And they are transferred from the steam road?

A. Yes, from the steam road to the electric.

274 Q. You don't mean to say that the same car which runs over the electric right of way would run over, and would be transferred over to a steam right of way?

A. It is not.

Mr. RUSSELL: Just the load.

Q. Isn't it true that ordinarily those interurban roads have a stipulation in their charter that they shall only carry freight in the night time?

A. I never heard of it.

Q. And that they shall be limited to a certain number of cars a day?

A. I never heard of that.

Q. Isn't it true in the city of Detroit?

A. No sir.

Q. Have you ever seen one of these franchises of a street railway?

A. No sir, I have not.

Q. So you would not be competent to judge whether that condition was in it or not?

A. No sir, I am not competent.

Q. Ordinarily this freight is carried in a small compartment of the ordinary coach, ordinarily, I say?

A. In the city of Detroit and on the Detroit & Northwestern that I cited as a freight road, their package business is carried in a vehicle that is similar to what we call a baggage car, and that the car carries nothing but freight. In the service between Bay City & Saginaw I stated that the compartment there used was a portion of a passenger car, what we call the baggage department.

Q. On other roads than the Detroit & Northwestern the freight is usually carried in a compartment of an ordinary car.

275 A. It is always carried in a separate car from my own observation.

Q. That is, on the Detroit & Northwestern?

A. Yes sir.

Q. But on the other lines it is usually carried in a compartment of the same car?

A. In the line operating between Grand Rapids and Holland they operate separate freight cars.

Q. You have spoken of the competition between your road and these parallel interurban lines. Has the traffic on your road been materially affected by this?

A. It has between given points.

Q. Between what points?

A. Well between Detroit and Northville.

Q. Have you any figures to indicate the amount of difference?

A. No sir, it is practically wiped out between Holland and Grand Rapids as to package freight.

Q. Haven't your passenger earnings as a matter of fact, increased gradually every year since you were paralleled by these other lines?

A. Not between those two points.

Q. As a whole have they?

A. The general business of the passenger department has increased.

Q. Can you give me the number of sleeping cars that are operated by railroads in this State?

A. No sir.

Q. And not leased from the Pullman companies?

A. No sir, I can only speak for our own road.

Q. It is a very limited number, isn't it?

A. Well there are quite a number of them.

Q. How many?

A. I couldn't tell you.

- Q. Can you give me the mileage over which they run ?
- 276 A. No sir, I cannot.
- Q. You say it was over the Canadian Pacific. What is the mileage of the Canadian Pacific in Michigan ?
- A. Those that are using their own sleepers and not Pullman ?
- Q. I am speaking of those now not operated by the Pullman Company.
- A. That would be between Detroit and Chicago, through the State of Michigan.
- Q. Over what line ?
- A. Over the Wabash.
- Q. That runs from Detroit ?
- A. It runs down for about 60 miles within the State and then it operates in and out of Detroit as to Canadian points.
- Q. That is, it starts at Detroit and runs across the river ?
- A. Yes sir.
- Q. And about how many trains a day carrying sleepers do they run over that line ?
- A. They have two trains in each direction daily.
- Q. Carrying how many sleepers ?
- A. Well one sleeper on each train.
- Q. That would be four sleepers ?
- A. That is four sleepers for the round trip.
- Q. Four sleepers a day ?
- A. Yes sir.
- Q. What would those sleepers approximate in value ?
- A. Well sir, I couldn't tell you.
- Q. What does a Pullman sleeper approximate in value ?
- A. From 18 to 20,000 dollars.
- Q. Those sleepers would not be more valuable than that ?
- 277 A. No sir, they would not be more valuable than that.
- Q. Those are the only sleepers you know of that are operated in Michigan by non-Pullman lines ?
- A. No sir, I mentioned one other road, the Duluth South Shore & Atlantic.
- Q. What is its mileage in Michigan ?
- A. I don't know.
- Q. How many sleepers do they operate ?
- A. I don't know that.
- Q. It hasn't more than three trains a day each way.
- A. I only know as to the Duluth, South Shore & Atlantic, that they do operate a sleeping car of their own, I have no further information.
- Q. How many trains do they run over their line a day ?
- A. I don't know.
- Q. Do they run more than three each way ?
- A. I couldn't answer that question without a time card.
- Q. You couldn't approximate the number of sleepers they have in Michigan ?

A. No sir.

Q. Something was said about the Soo line, that don't operate any sleepers?

A. Nothing was said by me.

Q. Do you know anything about the number of Pullman cars that are operating in this State?

A. In this State?

Q. Yes sir.

A. No sir, I do not.

Q. Do you know anything about the Pullman mileage in the State?

A. No sir.

Q. Now you have stated that the business done by the railroad companies operating their own cars, and by the railroads operating Pullman cars, is substantially the same?

A. Yes sir.

Q. And is the character of the business of the Pullman Company the same as the business of the railroad company?

278 A. Why—you say the character of the business?

Q. The business of the Pullman Company?

A. I should say it was.

Q. Explain briefly what the business of the Pullman Company is?

A. It is to furnish sleeping cars for the accommodation of passengers desiring to use sleeping berths during a night journey, [and operates chair cars in the day time.

Q. Isn't it true that it furnishes those cars to the railroad company?

A. The railroad companies operate and haul those cars and those cars are furnished by the Pullman Company for the accommodation of those passengers.

Q. They are furnished to the railroad company under an agreement with the company?

A. They are under contract with the companies.

Q. A certain amount is paid, either by the Pullman Company for hauling the cars or by the railroad company as a rental of them, isn't that true?

A. Yes sir.

Q. The Pullman Company is engaged in the business of leasing cars to Michigan railroads, isn't that true?

A. Well I wouldn't call it exactly leasing, they are operating under contract.

Q. They are loaning their cars?

A. Yes, and they are operated by the railroad companies.

Q. Do you say they are now engaged in the railroad business in Michigan?

A. They are engaged in the same character of business we are.

Q. Do they own any line of road in Michigan?

A. Do they own any?

279 Q. Yes sir.

A. No sir, not that I know of.

Q. Do they own any stations in Michigan?

A. None that I know of.

Q. Do they operate any cars of their own; that is, furnish the motive power?

A. They own their cars.

Q. Do they furnish the motive power?

A. No sir.

Q. Do you furnish the motive power for hauling your own cars?

A. Yes sir.

Q. Then isn't there a difference between the business you do and the business they do?

A. I don't think so.

Q. They lease the cars, or loan them to you, that is to the railroad companies and the railroad companies draw them, is that right?

A. That is the way it is done.

Q. And yet you say the business is of the same character?

A. Yes sir.

Q. As that of a railroad company that hires them and furnishes the motive power, and which collects the fare and which pays the rental?

A. It is exactly the same operation we are performing ourselves as to the Pere Marquette railroad.

Q. But the railway business that the Pullman Company does is limited to the collection either of a rental of those cars or the payment of mileage and the collection of a fare for the occupancy by the person who is travelling?

A. That is about the service.

Q. They don't collect any fares for transportation?

A. They collect nothing but their own fare.

280 Q. What sort of an arrangement have you with the Pullman Company?

A. Well sir, I haven't any personal knowledge of the contract in my mind at the present time, it is either on mileage or rental.

Q. What Pullman cars do you run on your line?

A. We run a sleeping car between Detroit and the Saginaw valley and between Chicago and Grand Rapids.

Q. What is the nature of that, do you pay the Pullman Company for these cars or do they pay you for hauling?

A. We pay them.

Q. About what is the rate you pay them?

A. Well I couldn't say what our arrangement is with them definitely.

Q. You simply hire the cars?

A. It is operated on a contract. In the summer time we have additional cars in our tourist business.

Redirect examination :

Q. In describing the business done by the interurban roads and the method of conducting the business you stated that as to the carriage of freight they had regular freight stations?

A. Yes sir.

Q. And that such freight packages were shipped and carried from one station to another the same as shipments would be made upon any steam railroad?

A. Yes sir.

Q. They wouldn't take up a package of freight at an intermediate point where they had no station?

A. They might pick up an intermediate package in some cases but they are usually conveyed on a regular freight service though.

Q. In respect to the passenger traffic: The frequency of the stops upon the interurban roads are much greater than upon steam roads?

A. Very much.

Q. As the roads approach the cities they will stop at most any point for a passenger?

A. Yes sir.

Q. Substantially the same as a street car in a city?

A. Yes, in a city.

Q. Are you not familiar with the business of the Detroit & Pontiac road and the Rapid railway from Detroit to Mt. Clemens?

A. No sir, I am not.

Q. Those roads do not come into competition with the Pere Marquette?

A. Not at all.

Q. In respect to through shipments of freight on the interurban roads, do I understand you to say that there were no through shipments, and that they were all local?

A. They are all local on the interurban roads?

Q. Then you don't know of your own knowledge that shipments emanating from the interurban roads are consigned through to some of the steam roads?

A. Not of my own knowledge, I have no knowledge of any of that through traffic on any of the interurban roads, possibly there is one exception that I mentioned, and that is this Holland & Grand Rapids road in connection with the boats on Lake Michigan carrying traffic from Chicago to Grand Rapids.

Q. You have no knowledge then whether or not there is competition in through shipments, say from Pontiac and Mt. Clemens which has taken away a large amount of traffic from the Grand Trunk?

A. I have no direct knowledge of that.

Re-cross examination :

Q. Do you know where the terminal of the Holland Interurban is at Ottawa Beach ?

A. Well I don't know where it is exactly, but I have an idea of its location, it is down near ours.

Q. Do you know whether it runs to the wharf at Holland ?

A. Yes sir.

Q. Does it run to the wharf at Ottawa Beach ?

A. It runs to the wharf at Holland and it runs to the opposite side of the lake at Ottawa Beach, what is called Macatawa Park.

A. Do the steamboats land near where it terminates at Ottawa Beach ?

A. Yes, they land passengers at Macatawa Park and they land their freight in Holland.

Q. They land their freight entirely in Holland.

A. Yes sir. The dock and the interurban road is there.

Q. Is their freight house at the dock ?

A. The freight is transferred from the boat immediately into the interurban car.

Q. What is the freight that is transferred from the boats ?

A. All kinds of merchandise.

Q. Consigned where ?

A. To Grand Rapids.

Q. From where ?

A. From Chicago.

Q. Have you ever made any shipments over that line ?

283 A. Myself ?

Q. Yes sir.

A. No sir.

Q. Have you, as agent for anyone ?

A. No sir. We are not agents for them.

Q. What is the source of your information ?

A. It is a competitor of ours and they have taken our business away.

Q. Then it is simply an inference that you draw from the fact that you have a little loss of business between certain points, is that true ?

A. We have no business and we had it.

Q. Your knowledge is an inference drawn from those conditions, you have no absolute knowledge of this fact other than that.

Q. I have the fact that this traffic has been taken away from us and put on the electric road.

Q. Your answer is a conclusion drawn from that fact ?

A. Yes sir.

Q. Your road is subject to regulation by the commissioner of railroads, isn't it ?

A. Yes sir.

Q. Do you take care of the business that your company has with him?

A. The commissioner of railroads?

Q. Yes.

A. All that pertains to the duties of that office?

Q. It all goes through your department?

A. Not through my department.

Q. Does it go through the legal department?

A. Through the legal department of the general manager's office.

Q. Do you know whether the interurban roads are subject to the same character of regulation that your road is in that respect?

A. I understand that it is not.

Q. It is not subject to his jurisdiction?

A. No sir, so far as I know it is not.

284 T. J. G. BOLT, on behalf of complainant.

Direct examination by Mr. BUTTERFIELD:

Resides in Muskegon county. Aged 55. Doing examination work for tax commission. I began in June, 1901. My previous business was farming. I have taught school—been school commissioner of the county for four years.

Have been supervisor of Moorland township for twenty or twenty-two years. This has been continuous, except when I was highway commissioner.

In 1901 I made examinations of the assessment in various counties, when they were preparing the report to the State board of equalization, working in the counties of Barry, Ionia, Montcalm, Clinton, Isabella, Gratiot, and I think, Midland, Lake and Mecosta, that was my own, and the men that were with me, Mason, Manistee, Newaygo, Dickinson, Ontonagon.

The general character of the work was the taking of sales furnished by the tax commission, verifying them, taking some specials and finding out how near the cash value was to the assessed value. These results were tabulated and sent to the tax commission. The sales came to us in sheets, giving the name of the grantor and the grantee, the date of the sale, the amount named in the deed.

(Mr. TOWNSEND: I make the usual objection to the evidence on the ground that this man is incompetent to testify upon this subject.)

(Mr. TOWNSEND: I will also add the objection to all these exhibits upon the same grounds that we have objected heretofore.)

The investigations of the property sold was the same work that we have been doing since. We viewed the property. The difference between the work of 1901 and 1902 was that the sales examined in 1901 reached back for four or five years, while in the later examinations we have taken the sales for only about two years.

Some of the counties visited in 1901 were well settled and some of them were not. Clinton, Barry and Ionia are considered
285 old and well settled counties.

"Q. Then I ask you whether in the year 1901, in the counties you have mentioned, whether the real estate, now particularly, was assessed at its true cash value?

Mr. TARSNEY: We object to it as incompetent, the witness not having shown sufficient knowledge on the subject.

A. Why, I think in my judgment—that is from my reports—it was not."

In the investigations it was the practice to communicate with the supervisor. Sometimes before, and sometimes after the examination.

Generally in 1901 I think that the properties upon which we made a report represented the condition existing through the township as to the ratio between the assessed and true cash value. The information we had on that point was from inquiry and observation, the inquiry including the supervisor.

(Under objection, by Mr. Townsend, as hearsay and incompetent.)

I don't recollect that I ever found, in 1901, a supervisor who did not state that he had assessed relatively equal all over the township.

It was the universal claim on the part of the supervisors that they assessed relatively. There were cases where that was not the case. I found from independent investigation that in some cases they had not assessed at the same percentage all over the township. I reported this to the commission, either in writing or verbally. There were five or six of us associated together in that examination and covering those counties that I have mentioned.

We came together and took the figures that each submitted and combined them in a report, and the figures went to the commission and were compiled together. The idea was not for two examiners to examine the same property, but sometimes two of us rode together, and reported our combined judgment.

286 In 1902 I examined Montcalm, Shiawassee, and, I think Saginaw.

Witness asked to refer to report of Montcalm county. (Exhibit H) for percentages, and (under objection, by Mr. Townsend, as incompetent and hearsay), testified:

Montcalm County.

Townships.	Sales.				Pickups.			
	No. ex.	As'd val.	Verf. con.	F. man val.	No. ex.	As'd val.	F. man.	Comb. %
Belvidere.....	55	\$21,680	\$37,295	\$38,030	6	\$8,670	\$18,200	54.
Bloomer.....	78	55,070	90,501	82,510	10	28,600	40,240	66.5
Bushnell.....	53	48,150	74,875	73,075	14	38,700	54,450	68.1
Cato.....	65	28,565	50,585	51,375	13	15,425	32,250	50.2
Crystal.....	64	44,440	71,150	72,300	8	21,100	32,600	61.5
Day.....	48	56,445	77,800	83,080	00	.....	.....	67.9
Douglass.....	38	25,675	42,725	40,275	9	9,300	17,500	60.5
Eureka.....	30	42,300	57,425	50,050	8	18,250	21,600	77.
Evergreen.....	55	31,725	43,025	43,100	10	9,000	11,400	74.7
Fairplains.....	52	36,410	54,700	53,675	13	27,210	37,400	69.8
Ferris.....	48	19,425	33,875	31,400	11	19,000	31,450	61.1
Home.....	67	27,780	38,412	37,615	7	20,400	30,600	70.6
Maple Valley.....	68	24,100	49,700	49,350	16	18,650	37,300	49.3
Montcalm.....	26	15,225	23,925	23,560	14	21,500	31,800	66.1
Pierson.....	31	18,340	24,800	23,240	14	24,900	33,300	72.3

The footings are not my own. I didn't make the percentages, that was done in the office by the clerks of the commission.

(Mr. TOWNSEND: I object to the use of these sheets (sheets from which the witness took figures in above table) they have not been verified, and it is incompetent and immaterial.)

I had proceeded as far down as Pierson, Montcalm county, yesterday reading the footings from the reports themselves. I took the footings from the report up to that time, and have compared them in a way that I am satisfied with those footings.

If some persons should verify the footings which I read, then the verification of the whole report would be completed. I am reading it as I find it, of course.

If we divide the total of the assessed values of the sales and pickups by the total valuation as fixed by the examiner of the sales and pickups, we will have the percentage which I have been reading as the percentage of assessed to true value of all the properties examined. And if the computations have been correctly made from my report, the percentage shown will, as near as I can estimate it, represent the percentage of assessed to true cash value of all the property in the township; if the assessments are in true relation to one another, but not if they are not.

(Mr. TOWNSEND: That is objected to as incompetent.)

We seek to include parcels which fairly represent the average work of the assessing officer over the entire town.

While the supervisors claim that they are treating people alike

and assessing all property at its true cash value, I find they had failed to do so in some cases. Where the examination and the assessment, in my judgment, is uniform, the percentage obtained by computation would represent the percentage of assessed to true value of the entire township; where the assessment is not uniform, it would not represent it, and in that case no average can be possible.

And no calculation of the assessment work in that township could be made upon a percentage basis, but only upon a re-assessment of every parcel.

I don't say that the supervisors claimed in every instance that they attempted to put down the same percentage of the true value all over the township. Generally they do. There are cases where they won't even claim it.

"Q. Do you mean to say you have found an assessing officer in all those counties that you mentioned yesterday that you visited who did not pretend that he treated all the people alike, but admitted that he assessed one man at 90% of the true value and another man at 60% or some other percentage, varying to that extent, is that what you mean?

A. Well I have found men—I mentioned this, that I have found men that would acknowledge, perhaps not come out in plain English and say that, but they would imply it at least, that they had assessed non-resident lands nearer to the value than they had resident lands.

Q. And those are the isolated cases to which you refer?

A. Yes, sir; that occurs usually in the more semi-cultivated townships or districts where there are more non-resident lands.

Q. You say those cases are rare, but that they do exist?

A. They do exist. Perhaps I shouldn't say that they are rare, but they are rare in certain parts of the State. I think perhaps it is almost—I wouldn't say that it is universal, but it is more in certain portions of the State, but it is quite a usual practice."

When we made the examination for the State board of equalization it was hurriedly gone over.

In 1902 I don't remember having found any assessing officer who admitted that he was discriminating. It was the general claim that in the counties which I examined in 1902 that the assessing officers had treated everybody alike. In some of the townships it is true that the computed percentage, assuming that the computation is correct, fairly represents the percentage of assessed to true value over the entire township. In some of the townships it is not true. The reason being that in some townships my report shows a great variation of percentages. One piece of land, according to my comparison, is assessed at 85%, another at 70%, and another at 90%, and it would be absurd for me to testify that throughout the whole township it would attain an exact result.

"Q. But those townships are the towns where you said a

moment ago that no average could be obtained, and the only way to make a perfect correction would be to re-assess all the property in the town.

A. That is true also in some of the townships given on the basis of the non-resident property perhaps, and as that occurs there is a variation between my judgment and theirs.

Q. In those townships I understood you to say that the assessing officer claims—

(Mr. TOWNSEND: I object to the argument of counsel, to the witness and to the leading character of the questions.)

Q. I understood you to say that even in those townships
289 the assessing officer claims that he is treating them all alike?

A. Yes, sir.

Q. And the discrimination is your judgment rather than his, is that correct?

A. Yes, sir. To make it plain, only of course as I say, where there are non-resident lands, they tacitly acknowledge at least that they favor the resident owners.

Q. I am speaking of the counties you examined in 1902.

A. These two counties in question are Shiawassee and Montcalm. Montcalm has some of these non-resident lands in some two townships of Montcalm, and there is certainly a discrimination between, and I can make it specific perhaps. In the townships of Sidney, as my recollection runs, the resident lands are assessed lower relatively than the non-resident lands, and while the supervisor generally—as anybody knows—won't come out and say these things yet he will lead you to understand and tacitly acknowledge that he has done that, but to come right out and to say it in plain English, that he practices that which is contrary to law, and that he knows it, he won't do it, but he will give you to understand this is so and allow you to understand it so.

Q. That you say is quite the general rule in the townships where there is a large amount of non-resident lands?

A. Yes, that has been my observation and I believe it is so acknowledged by most all that are interested and understand tax matters."

Witness testified, using his own report, giving footings not made by himself and the percentages from Exhibit H.

(Mr. TOWNSEND: I want it understood that he is reading those percentages from a sheet with which this witness had absolutely nothing to do whatever, and we object to it as incompetent and immaterial.)

290 Township.	Sales.				Pickups.			
	No. ex.	As'd val.	Verf. con.	True val.	No. ex.	As'd val.	True val.	%
Pine	32	\$12,820	\$25,421	\$23,525	15	\$9,625	\$18,625	53.2
Reynolds	50	11,115	28,855	25,195	8	14,900	35,500	42.9
Richland	43	13,580	22,122	22,848	7	11,270	17,500	61.6
Sidney	42	16,100	29,245	27,245	9	8,450	17,950	54.3
Winfield	30	17,725	38,155	36,480	14	14,150	29,400	48.3
Cities:								
Greenville	80	57,930	80,110	84,335	00	.....	.....	68.7
Stanton	33	20,475	25,290	25,275	00	.....	.....	81.

Witness testifies to his work and results in Shiawassee county from his own reports (percentages from Exhibit I) as follows:

Township.	Sales.				Pickups.			
	No. ex.	As'd val.	Verf. con.	True val.	No. ex.	As'd val.	True val.	%
Antrim	21	\$20,400	\$34,000	\$34,500	25	\$59,000	\$94,500	61.55
Bennington	36	51,350	68,735	71,425	21	85,600	126,800	69.08
Burns	28	38,254	53,350	51,925	23	96,800	134,700	72.36
Caledonia	30	46,640	66,695	64,450	15	45,620	63,000	72.38
Fairfield	33	40,890	63,700	63,150	11	27,920	42,200	65.31
Hazleton	44	76,570	85,315	84,575	19	51,100	55,850	90.91
Middlebury	19	23,610	29,975	28,650	18	75,100	84,050	87.58
New Haven	37	63,750	72,575	71,750	18	57,500	64,750	88.82
Owosso	38	54,465	69,317	70,730	18	49,430	62,300	78.9
Perry	44	38,610	59,900	60,425	25	65,750	108,400	61.80
Rush	31	30,835	45,775	48,550	24	62,650	98,150	63.72
Sciota	35	26,640	35,535	35,585	22	72,800	96,850	75.1
Shiawassee	38	46,250	65,407	62,675	18	44,275	60,300	73.85
Venice	32	60,310	80,926	79,600	15	41,975	55,050	75.96
Vernon	98	77,725	131,080	135,635	12	26,600	42,550	68.54
Woodhull	25	22,980	30,215	31,310	22	49,210	69,000	71.96
Owosso city	108	77,646	117,411	117,463	21	150,300	203,100	71.1
Corunna city	36	18,725	26,065	25,400	12	17,150	23,900	72.76

Witness shown a paper consisting of four sheets, being a résumé of the work in Shiawassee county, marked Exhibit U. That is my general report and is all in my handwriting.

(Mr. BUTTERFIELD: I offer this in evidence.)

(Mr. TOWNSEND: We object to it as incompetent.)

Exhibit U was then read into the record.

The property and value of the real estate in the township of which I am supervisor has increased very little since 1899, but the

assessed value has increased about 130 %, and in the present year, 1903, it is assessed at its true cash value, but it was not so assessed in 1900.

(Under objection, by Mr. Townsend, as incompetent and immaterial.) I think perhaps in 1900 I added 100 per cent. or thereabouts, and I added something more in 1901, but don't think I added anything in 1902, I think by that time I had it up.

(Under objection, by Mr. Townsend, as incompetent and immaterial.) My recollection is that the other townships in my
291 county were not assessed at their actual cash value. The township of Eggleston, and some others were, but not all of them. One year my township was cut down twenty thousand dollars by the county board of equalization as being assessed too high. This was after I added the 100 %. Last year they didn't cut it down any but took it as a basis and raised others that were not supposed to be assessed so high.

It is my belief that it was the practice of the other supervisors of the county to assess resident property at a uniform percentage.

"Q. And that has been the habit of assessing officers in your county for a good many years prior to 1899, hasn't it?

A. To do what?

Q. To assess the property in their township at a percentage of its true value less than 100 %.

Mr. TOWNSEND: That is objected to as leading.

A. That is, the resident part?

Q. Yes, sir.

A. Oh yes, sir. As near as they could I think it was their intention to assess.

Q. And that has been the habit for a good many years?

A. Yes, sir.

Q. Don't you know, as a matter of fact, that that is the habit as a general proposition all over the State of Michigan?

A. To do what?

Q. To assess property prior to 1899 or to attempt to assess property in their townships at some percentage of the true cash value less than 100 %.

Mr. TOWNSEND: That is objected to as incompetent.

A. That is my belief and my understanding that they used to assess property at less than its actual value; that is as far as my knowledge extended. I don't know what they did in the south part of the State here.

Q. You had quite a little knowledge of the counties in the
292 vicinity of Muskegon?

A. Yes, sir.

Q. And the same general habit existed, did it not, after the year 1899 down to the present time, except so far as it has been changed by the actual work of the State tax commission.

A. Well, not only changed by the actual work of the State tax commission, but by the influence of the commission.

Q. You think the commission has influenced the assessments in the State?

A. Yes, sir, I think that is what influenced them, they thought they might be getting after them, and I think a great many others did the same and raised their assessments after the commission was organized. They began to see that it was necessary to assess at 100%, and they began to raise their assessments and some actually attained 100%.

Q. And in the townships you have examined even as late as 1902 you did not find any where they had got up to the full 100% in your judgment?

A. Yes, sir.

Q. You did find some?

A. Yes, sir.

Q. You didn't in those you reported?

A. Not in those two.

Q. What other counties did you examine in 1902?

A. Well, I don't know that I examined any part of 1902 that came up to actual value, that is, right up to 100%. Of course, in Shiawassee county, the township of Hazeltine and Middlebury and the township of New Haven, while they are not right up full 100%, they are assessed so near that in talking with them we generally considered that the variation might be in the judgment of the supervisor and the examiner; that is to say, that the trend of the supervisor is to get a very conservative cash value, and the natural trend of the examiner—not so much now as in the past—has been to get at rather a strained 100%, rather high, and that is the natural make up of the minds of the two; they are exactly diametrically

293 opposed, one is searching for some thing and the other is—

Q. Trying to hide it?

A. Yes, that is the facts in the case.

Q. One is searching for something and the other is trying to hide it?

A. To a certain extend that covers the situation, I think.

Q. So when you find a township that is up to say 90 % of its true value in your judgment you recommend to the commission that there is no immediate necessity for action in that township?

A. Yes, sir; that is my manner, and I believe the commission feel that way too."

Cross-examination by Mr. TARSNEY:

The work of 1901 was travelling through the counties getting a general idea in order to make report to the State board of equalization. Before the adjournment of the State board of equalization I was engaged about five and one half months, and during that time travelled in the counties of Clinton, Isabella, Gratiot, Midland, Lake, Mecosta, Manistee, Mason, Newaygo, Dickinson, and Ontonagon.

I made a partial examination in Saginaw before January 1, 1902. In this work I had with me five men of whom I had supervisory control. We worked several counties at a time.

I made all the examination that was made in Ontonagon county that year. We examined the mining properties, the sales, wood lands and a number of specials; there probably a week and half or two weeks.

Taking Ontonagon as an illustration: We verified the considerations for sales given in deeds, if possible the information being derived of others. Sometimes we would get it from one of the parties and a great many times from other persons. We had no means of knowing whether they told the truth or not.

We also examined some of the property sold in Ontonagon county.

294 The property in this county consisting of either mines or timberlands. I remember there being one tract there of 100 million feet; it ran all the way from 100 thousand to 700 thousand to a forty, in our judgment. This was not a very close estimate; we didn't count the trees and take the acreage as they usually do, but took a general concept of the forty and between ourselves agreed about what we thought was on the forty.

Mr. Horton, who was with me, was a farmer and had been a lumberman and an estimator of timber. We did not estimate the whole 100 million. The supervisor had an estimate and he gave us the figures; he had a book with the estimate of the whole 100 million, and we took some of the descriptions and compared his figures with our estimate upon several forties. We estimated the timber upon a number of forties by walking upon the forty and estimating it in a rough way, not getting it down to a fine estimate, but looking it over.

We had both had some experience in estimating timber.

I think we examined more than five forties in a hundred, but am not sure. When we got through with the pine tract, we would compare notes and talk about it and reach a conclusion. There was a variation in judgment between us, but not as wide a range as 15 or 20 % when based upon pine we both looked at. Had never examined pine on the Upper peninsular before, though Mr. Horton had. Some of this pine lay within two miles of a railroad.

Did not know at that time the pine in that section is affected with a small shake, a hair shake, and we did not take it into consideration. We were not estimating so close as that in our figures. I never looked at it to see what proportion of it had this shake, though my judgment is there was very little in the pine I saw. The supervisor had some estimates of this timber in a large book that he had made and we compared a few forties with the estimate that he furnished. I did not say we reported on the whole 100 million, I said there was a tract there of that size.

295 Our report did not cover anything except that which we personally saw. If the tax commission reported the entire property of Ontonagon to the State board of equalization at

the same percentage that we reported the part we personally examined they did it upon the basis of our reports.

The number of descriptions we reported was a small amount in comparison with the whole. Did not make as thorough examinations at that time as I have recently made.

We compared the consideration which we found with the assessment of the particular parcel on the tax roll. Would sometimes be more than one description in a section, and in a great many no descriptions at all. We generally reported upon seven or eight or nine sales, and we could not have had one in each section. We didn't report upon all the sales that were furnished. In our hurry to get through, we took seven or eight sales and a certain number of pickups. The sales reached back four or five years.

Had no means of knowing whether the sales were for cash, except as we investigated.

In Montcalm county, in 1902, the sales taken were mostly made the same year or the year previous.

The sales I reported on were mostly part cash and part time. I consider a sale as good as cash when there is enough paid down so that the mortgage will sell for its face. In making the examination we relied as to the value and sale price upon information from others.

The actual value of property is, in general, based upon my own judgment. The value is dependent on a good many things, the location, environment, neighborhood, character of people that settle about, proximity to schools and roads, distances from, and kind of, market, and without a knowledge and familiarity with all those conditions, a stranger could not give a correct value.

A fairly intelligent man residing in the community, familiar with the property, is better able to judge of the value of the prop-
erty than a man living in a different section of the State.

Put the supervisor of Pine Lake into my township of Moorland and he would be rather at sea, if he didn't make any inquiries, but he could inform himself, though it would take him some time to obtain the information. I think he could put a value as near correct as I could if he exercised the judgment I do. He might vary in valuing a farm, calling it worth forty dollars an acre, when I called it worth fifty; he might call it fifty where I called it forty; and I do not know that that would be at all strange.

Two men living in the same community may differ, five, six or seven dollars an acre on a value that I called worth forty dollars, and when we speak of value in certain kinds of property, it is a good deal the product of one's mind, just what he happens to think. I think as a general proposition that it is a very good proposition that in the valuation of property, we have people who are a little optimistic and habitually place values upon property higher than others who take a more conservative view, depending on their nature. We sometimes find men who are absolutely honest and think they are exercising their best judgment, and yet are unconsciously swayed

by their environments and interest in the subject that they are dealing with.

Q. And that is illustrated, I think perhaps, by a remark you made this forenoon in relation to values, that some would lower their value or have lower values than others, and yet think that they were fixing the right value?

A. Yes, I think that is true.

Q. You think that is so, don't you?

A. Yes, sir.

Q. So that a supervisor or assessing officer in assessing the property in his jurisdiction, recognizing that the law requires him to assess it at cash value, may stop and say, 'What will that thing sell for spot cash,' and fix a sum upon that according to his judgment as to what somebody would pay for it, paying spot cash, isn't that right?

A. Well, I think that they do; yes, sir.

297 Q. Then somebody else taking the same piece of property and saying that that could be sold upon the usual terms of one-quarter or one-third down and the balance in three or four or five years, he would say that it is worth five or six or eight or ten dollars an acre more, and both be honest?

A. Yes, both be honest about it, and both might say it could be sold for that much more for spot cash, too; that is the variation of judgment of the two men; I think so.

Q. So that you don't think it is true that the supervisors, some of whom you have spoken of as having in mind this morning in making the assessment of property at its cash value, were honest in making their assessments; that is some which you now think is less than cash value of certain property?

A. Well, now, I think there are some of them, as I have before stated, that were calculating that they were the cash value, and perhaps they all did; I don't know as to that; there were some that did that I thought were practically cash value."

I think some of the assessing officers of the State intentionally under-assess property. I don't know that that is true, but my judgment is that they know that they are assessing at less than cash value, from my observation that is the exception to the rule, I think perhaps there are quite a number, a good many. "Of course, I don't know that this would be true, but in my judgment I should say that they must know that they are under-assessing; well, I can hardly answer that question properly, because it is a matter of mental philosophy to a certain extent.

If a re-examination of the same property occurs, it is accidental and I didn't seek to take the same places. My judgment on a particular piece of land might vary from what it was before. I think I might give a different value two years apart on the same property, and if I could forget what I did the first time, even two hours afterwards, I think any person could do that. That judgment

298 would not vary in range very widely, say about 10 per cent.; I would not regard that as at all strange.

Has had occasion to look up city properties considerably in the last twenty years.

Doesn't think that he could walk from here (city hall in Lansing) to the Downey house and give the value per front foot on main street. It would take two or three days to get a sufficient idea of how property was selling in Lansing, by inquiry, by observation, relying very largely upon the opinions expressed by others, so far as the value of the realty is concerned; so far as the value of the building is concerned I could estimate that

In the township of Vernon, Shiawassee county, there is the village of Durand and the village of Vernon; there I investigated ninety-eight sales and twelve pickups. A number of them were houses and lots in the villages. Our report was not intended to cover any other property than those 110 pieces, and from those 110 pieces, I am not able to tell what percentage of the whole number of parcels appearing on the assessment roll.

That is also true with the other townships and cities in Shiawassee county.

In the personal examinations made, I drove to all the lands and looked at them; I had my plats and went through the village and looked at the property, that is, that we reported upon, but not the others. And upon the number reported upon and examined I based the report that was read into the record this morning.

We assumed that the balance of the townships in the county and the descriptions in the township are assessed at substantially the same ratio as that we gave in the report. So that in a way, it was upon that assumption that I thought a particular township was assessed at a certain percentage of its value. I have said, in my report

299 that the township was worth about so many dollars, just as though I was looking at a farm. I would say that is a nice township, and in my opinion is worth a million dollars, or eight hundred thousand, and I am aided by the minutes I have obtained, yet not entirely so.

The soil will vary upon a given section; there may be sand on one side, clay on another and loam somewhere else, and all these conditions necessarily enter into and affect the value of a particular forty upon which they are located. I made a minute examination of certain specific descriptions in each part. I made a cursory examination of the whole, and these things combined to give me a concept by which I say that a township is worth about a million dollars. I could not say it without that minute examination and comparison, of course.

In 1901, the work was a sort of pioneer work, upon which I would not want to rely. The subsequent one a more critical and careful examination and more reliable. I would not rely upon the examinations made in 1901 as a buying and selling proposition of property.

When in the report upon Shiawassee county it is said that a particular township as a whole is assessed at a certain percentage that

means that it was a sort of judgment based upon the examination of parts and speculative as to the balance. And when I find, as I did in one of those townships, that the property was assessed at approximately 90 per cent. of what I thought was its value, I would say that the property was substantially assessed at its cash value. I don't know as I could say the same if it were 85 per cent., but I could hardly tell you. The difference could be attributable to the difference in an honest judgment between two men, which might exist to the extent of 15 per cent.

If in our examination, instead of including fifteen pieces, we had taken thirty descriptions, the relative proportion between the assessed and real value would differ.

If I had examined twice as many pieces in the township of Woodhull as I did, it would make a little difference and change the percentage a little. But my judgment is that it would change 300 the percentage a little. But my judgment is that it would change it but a little. In the selection of pieces, if upon certain sections there was a sale, I would try to take my special pieces from other sections, so as to get one description from each section throughout the township. We take those descriptions at random.

It very often happens that in a given section there may be one farm consisting of sixty acres of land worth \$60 an acre, and another farm of equal size worth \$25 an acre, and some land not worth over \$10 or \$15, so that in order to determine the actual value of a certain section it would be necessary to examine all the property on that section.

I have found property actually assessed at more than its value. Several descriptions at least, and so far as I know that is attributable to the difference in judgment between myself and the assessing officer. That condition might exist in every township, but I have not found it in every township.

Redirect examination :

In saying that the work of the commission in 1901 was unreliable, I mean that it was not as reliable as the work of 1902.

The fact that the percentages in the 1902 work might be lower than those in 1901 would not enter into determining which were the more reliable, if they were different, I should rely on the 1902.

Witness asked to compare percentages on Exhibit M report to State board of equalization, with those on tabulated sheet for county of Shiawassee, Exhibit I.

(Mr. TOWNSEND: We make the same objection that we did to the original use of Exhibit M as being irrelevant, hearsay, incompetent and immaterial.)

I don't know that the comparison increases my respect for the work of 1902, though I am surprised to find that they are so near together. I never looked at them before; in the 1901 work 301 the sales reached back four years or so; I don't know how it was in that particular county.

302 WILLIAM CASEY a witness produced and sworn on the part of the complainant, testified as follows :

Direct examination by Mr. BUTTERFIELD :

Q. Where do you reside ?

A. Thompson, Schoolcraft county.

Q. How long have you resided there ?

A. Four years the 5th of last February.

Q. How old a man are you.

A. 47.

Q. What is your business ?

A. Mill foreman, saw mill foreman.

Q. Are you in the employ of any manufacturing company or are you employed at any mill at present ?

A. No sir.

Q. When did your employment cease ?

A. Last Saturday evening.

Q. Prior to last Saturday evening with what company were you employed ?

A. The F. & F. Lumber Company.

Q. What does the F. & F. stand for ?

A. I suppose for Fuller & Friant.

Q. For how long had you been in the employ of that company prior to last Saturday evening ?

A. From about the 5th of February until last Saturday night—four years ago last February until last Saturday evening.

Q. In what capacity were you employed by that company ?

A. As mill foreman.

Q. Where were you stationed ?

A. At Thompson.

Q. What railroad, if any, runs through Thompson.

A. The F. & F. Lumber Company's railroad.

303 Q. Is that the only road ?

A. The only one.

Q. Do you know whether the Fuller & Friant Lumber Company is a corporation or not ?

A. I think it is, it is limited.

Mr. TOWNSEND : We object to this as not being the best evidence.

A. All I know about it is what I saw in the paper that it is incorporated.

Q. Do you mean in the newspaper or in the papers ?

A. In the newspapers.

Mr. TOWNSEND : I object to it as incompetent and hearsay.

Q. Is there the word " Limited " in the name ?

A. Yes sir.

Q. It is called the Fuller & Friant Lumber Company, Limited ?

A. The F. & F. Lumber Company, Limited.

Q. Do they always put in the word Limited ?

A. Always.

Q. How long is this F. & F. railroad ?

A. It is between 27 and 30 miles, all of the branches and the main line, all told.

Q. And where does it start from and go to ?

A. It goes from the dock at the mill and it runs northwest up through Thompson township and runs up almost to the line of Delta county.

Q. It starts from the dock, you mean from the mill at Thompson ?

A. At Thompson, yes sir.

Q. What is the station at the other end of the road ?

A. Well there is a camp.

Q. A lumber camp ?

A. Yes sir.

304 Q. What is it called ?

A. Well there are five of them, there are five camps up there.

Q. Each one has a name ?

A. Yes sir.

Q. What do they call the one at the end of the line ?

A. The one at the end of the line is called the C. L. camp, the Chicago Lumber Company.

Q. Does that belong to the Fuller & Friant Lumber Company ?

A. No sir.

Q. How many men are in the C. L. camp ?

A. I couldn't say just how many there is now but the foreman told me that he thought they had 125.

Mr. TOWNSEND: We object to it as incompetent and hearsay.

Q. When was this road built ?

A. I don't know when.

Q. Was it in operation when you commenced to work for the company ?

A. Yes, the lower end of it was.

Q. What do you mean by the lower end, how far did it run when you commenced to work there ?

A. Well they run about 18 miles.

Q. And it has been extended to 27 or 30 miles since you have been working there ?

A. Yes sir.

Q. What other stations are there upon the road besides the Thompson and the C. L. camp ?

A. There is what is called the Big Spring and there is a camp there, and there is a jobber by the name of Chris Peterson and John Beaton and Frank Roxberry, and what they call the headquarters camp, and that is the only camp that the F. & F. has got.

305 Q. And the Big Spring and Chris Peterson and John Beaton and Roxberry are all owned by jobbers ?

A. By jobbers yes sir.

Q. Are they in any way connected with the Fuller & Friant Company?

A. No sir, only through jobbing for them.

Q. Do you mean to say that they have contracts to get out certain stuff for the F. & F. Company?

A. With the exception of Beaton, and Beaton owns his own land his own timber.

Q. Beaton owns his own land and the C. L. camp is owned by the Chicago Lumber Company?

A. Yes sir.

Q. Does this railroad cross any other railroad?

A. The Soo line crosses it.

Q. Is it a grade crossing?

A. Yes sir.

Q. What is the system of signals that governs the movement of trains at the crossing, is there a tower and an interlocker?

A. No sir.

Q. Or is it operated by a flagman?

A. No sir; the train stops.

Q. All trains stop?

A. All trains are supposed to stop.

Q. On both roads?

A. Yes sir, on both roads, 400 feet on each side.

Q. Does the Fuller & Friant road cross any public highways?

A. Yes sir, it crosses five of them.

Q. Does it run through land that is not owned by the Fuller & Friant Company, I mean, does it run through land which is not owned on either side of the right of way by the Fuller & Friant Company?

306 A. I couldn't say exactly.

Q. How is the railroad constructed, is it of a standard gauge?

A. Yes sir.

Q. And what kind of rails?

A. A part 40 pounds and a part 30.

Q. T rails?

A. Yes sir.

Q. What sort of equipment has the road?

A. Well they have got three locomotives, 49 Russell logging cars, four small flat cars, two cabooses and one box car.

Q. At the crossing of the Soo line do you have any track connection with them to transfer cars?

A. Yes sir.

Q. Do the cars of the F. & F. Company go off of that road onto the Soo line?

A. I never saw any of them.

Q. Do the cars of other roads come onto your road?

A. Yes sir.

- Q. And that was so, was it, last year, in 1902.
- A. Yes sir.
- Q. Did that road, the F. & F. road, in 1902, carry freight or persons outside of its own company?
- A. Yes sir.
- Q. Other persons?
- A. Yes sir.
- Q. Who did they carry freight for?
- A. For Peterson and Roxberry and for—
- Q. (Interrupting.) Do they carry freight for the Chicago Lumber Company?
- A. No sir.
- Q. Beaton?
- A. Yes sir, and Roxberry and Peterson and Chauncey Hinckson, they drew stove wood for him.
- Q. What are the kinds of freight carried besides stove wood?
- A. Bark, tan bark, pulp wood logs, saw logs and ties.
- Q. Do they carry merchandise to the camps?
- A. Yes sir.
- Q. For all these people you have spoken of?
- A. Yes sir.
- 307 Q. Does the merchandise go in carload lots always, or sometimes in less than carload lots?
- A. Well, very seldom they get a carload.
- Q. It is very seldom they have a carload?
- A. Yes sir.
- Q. But this freight consisting of bark, and pulp wood logs and ties of course comes in carloads?
- A. Yes sir, the biggest part of the time.
- Q. So that in 1902 the F. & F. railroad was transporting freight in carload and less than carload lots for other people?
- A. Yes sir.
- Q. Did the F. & F. road in 1902 carry passengers?
- A. Yes sir.
- Q. And collected a fare?
- A. Yes sir. They have a sign up in their office that they will charge a limited fare.
- Q. The cars you spoke of, the logging cars, you call the Russell logging cars?
- A. Yes sir.
- Q. Are they different in any respect from the flat cars used on the Soo line and other railroads?
- A. Yes sir.
- Q. In what respect?
- A. They are only 20 feet long and there is no platform upon them.
- Q. How about the cabooses, do they differ from the cabooses used on other railroads?
- A. Well they are smaller but built on the same plan.

Q. How about the box car, you say they have one box car, is that a standard box car or smaller?

A. It is smaller.

Q. You mean it is shorter?

A. It is shorter, it is only about 30 feet.

Q. And how many wheels has it?

A. Eight.

308 Q. How about the locomotives, what make of locomotives have they?

A. One of them, the largest one I think, is a Baldwin engine.

Q. Is it of the same type used on other railroads, or on some railroads?

A. It is an older one, of the old style.

Q. Was it bought from another railroad?

A. Yes sir.

Q. Second hand?

A. Yes sir. Then they got a smaller size than that, it is the Porter Bell, about 16 tons, and then they have got a small one, still smaller, that they use of switching in the yard, moving lumber from the yard down to where they ship it by boat.

Cross-examination by Mr. WYKES:

Q. You say you have been employed, or had been, up until last Sunday, by the F. & F. Lumber Company for four years?

A. Yes sir.

Q. What was your position with that company?

A. Foreman.

Q. As foreman what were your duties?

A. Well my duty was to keep the sawmill in repair, employ all the men that were employed in the saw mill and unloaded and took care of all the stuff that came down over the railroad.

Q. What salary did you draw in that position?

A. \$1200 a year.

Q. What connection had you with the shipping that came over this railroad?

309 A. Well, I unloaded everything that came down and came to the mill and came to the yard to be shipped to other places by boat.

Q. Did you have anything to do with the superintendence of the operation of those cars of this 20 miles of road?

A. Just whatever Mr. Norris would tell me to do, he was the superintendent.

Q. And the general manager?

A. Yes sir.

Q. What was the reason you left the employ of this company?

A. Well I thought I could do better, so I quit.

Q. Have you anything in sight, are you going into any other kind of business?

A. I was going to Seattle.

Q. You are not an officer in this company?

A. No sir.

Q. And you never have been an officer in this company?

A. No sir, I only held the office of foreman.

Q. You had nothing to do with the books?

A. No sir. I brought all the time, and everything like that, I kept the time.

Q. That referred merely to the sawmill?

A. Yes sir, and the railroad.

Q. You had nothing to do with the books in which the accounts of this railroad were kept and entered?

A. No sir.

Q. Were there any such books—did they keep any books of account with this railroad, to your knowledge?

A. I never saw any. They have got a bookkeeper there but I never saw his books.

Q. Did you know anything about the arrangements, under which the shipping over this road was done?

A. Only just what Mr. Norris told me to charge when they came and what if there was anything going up, and what I was to charge to put it upon my book and turn it into the office.

Q. Did Mr. Norris tell you to make a charge?

A. Yes sir.

Q. What became of the proceeds, and I am speaking now of the carrying of passengers. Did you ever make a charge for the carriage of passengers?

A. No sir, I never made a charge for carrying passengers.

Q. Did you ever know of anybody making a charge for carrying passengers?

A. I did, I saw the conductor taking money.

Q. Do you know whether he turned this money into the company?

A. I don't know.

Q. You know that he didn't turn it into the company don't you?

A. I couldn't say.

Q. You know that the company never received a cent for the carriage of a passenger over the line?

A. I don't know. I don't know no such thing, sir.

Q. Do you know that they ever did?

A. I know the conductors charge

Q. That went into the company—do you know that they ever took in a cent for the carriage of passengers over this line that went to the company?

A. I don't know.

Q. What is the character of the passenger cars of this company—they haven't any have they?

A. No sir.

Q. Their equipment is limited, that is, outside of locomotives, it is limited to log-ing cars with the exception of one box car.

A. And two cabooses, yes sir.

Q. They never carry anything to your knowledge but forest products?

A. Coming down?

Q. And going up, they carry nothing but provisions for
311 the men in the lumber camps?

A. Yes sir.

Q. Now you have stated that one terminal of this company is at the village of Thompson. How large a settlement is there at Thompson.

A. It has probably about 200 or 225 people.

Q. Are all these people in the employ of the F. & F. Lumber Company?

A. No sir.

Q. Isn't the great majority of them in the employ of the F. & F. Lumber Company?

A. A majority of them is.

Q. Would there be any settlement there if it were not for the existence of the F. & F. Lumber Company's plant?

A. I couldn't say, I think there would be though.

Q. Now running up the line, what is the first place that you have said that there was something in the nature of a settlement—Big Spring is it?

A. Yes sir.

Q. Have you ever been there?

A. Yes sir.

Q. What is the character of the settlement there if there is any?

A. It is just a camp.

Q. Just a camp?

A. Yes sir.

Q. How long has it been there?

A. It was there—it was built before I went there.

Q. And it is still there?

A. Yes sir.

Q. It is still in operation?

A. Yes sir.

Q. With how many men?

A. I couldn't say.

Q. Who is it owned by?

A. I don't know.

Q. Are the men employed in getting out timber for the F. & F. Lumber Company?

A. Peterson runs it.

Q. Peterson runs the Big Springs outfit?

A. Yes sir.

Q. And his logs go to the F. & F. Lumber Company?

312 A. No sir, not all of them ; a part of them do.

Q. Didn't they in 1902?

A. No.

Q. Do a part of them?

A. A part of the logs, the cedar and the ties and the posts and the pulp wood are sold outside.

Q. Is this camp on the Fuller & Friant land?

A. I couldn't say.

Q. Do you know whether they are cutting on the Fuller & Friant land?

A. I think not.

Q. What is the next camp up the line?

A. Beaton's.

Q. How large a camp is that?

A. Well they have from 18 to 30 men, and probably 35.

Q. Employed simply in the winter?

A. Winter and summer.

Q. Do they log in there in the summer?

A. Yes sir.

Q. Do they do any shipping over the F. & F. Company's road?

A. Yes sir.

Q. Do the F. & F. Company get all the logs they take off?

A. Yes sir, all the logs.

Q. They get everything they take off?

A. No sir.

Q. What is it they take off that the F. & F. Company don't get?

A. The ties and the posts.

Q. Are those shipped over the F. & F. Company's line?

A. Yes sir.

Q. Do you know the amount of ties and posts shipped over the F. & F. Company's line in this last year?

A. No sir, I don't.

Q. You stated you took those things off at the mill?

A. Yes sir, but I could not say just how much there was of it.

313 Q. Do you know the amount that went down from the Big Springs outfit during the last year?

A. No sir.

Q. The amount of logs and ties and shingles?

A. No sir.

Q. That the F. & F. people didn't get?

A. I do not.

Q. You took those off at the mill?

A. Yes sir.

Q. And you don't know the amount of them?

A. No sir.

Q. Now further up the line what was the next lumber camp or settlement of any kind?

A. Downey's and the F. & F.

Q. All of their products run over this line?

A. Yes sir.

Q. This road is maintained by them for the purpose of taking the logs that they lumber at this camp into the mill, that is the principal purpose of maintaining the road and when they take up this camp they will take up their roads with it, won't they?

Mr. BUTTERFIELD: I object to that unless the witness states that he knows.

A. No sir.

Q. Have you ever talked with Mr. Norris upon this subject?

A. Yes sir.

Q. Hasn't Mr. Norris stated to you that they would take up this line when they finished lumbering?

A. No sir.

Q. How many men are at this camp, at the F. & F. Company's camp?

A. Well this summer sometimes there would be five and sometimes a hundred.

Q. Is that the terminal of the line?

A. No sir; the Chicago Lumber Company's camp is the terminal.

Q. How does the Chicago Lumber Company get its lumber out?

A. They haven't brought any yet.

314 Q. You have stated they haven't shipped any over this line?

A. Not from the Chicago Lumber Company.

Q. What is the purpose of the F. & F. Company's line running up into the Chicago Lumber Company's timber—don't the F. & F. people lumber up in there too?

A. They calculate to haul it, they calculate to draw for this Chicago Lumber Company 30 million feet.

Q. When are they going to lumber that, do you know?

A. They have got about two millions on skids now.

Q. Aren't the F. & F. people doing lumbering in there?

A. No sir.

Q. And isn't the lumber going to their mill?

A. No sir.

Q. Do you know anything about the arrangement, if there is any, between the F. & F. people and the Chicago Lumber Company?

A. Nothing only just what Mr. Friant told me.

Q. You have stated that they carried forest products and products for other institutions than the F. & F. Company?

A. Yes sir.

Q. Can you give the amount of that in the year 1902.

A. No sir.

Q. You cannot approximate the amount?

A. No sir.

Q. Do you know anything as to the amount for any previous years?

A. No sir.

Q. Don't you know it would not in any one exceed \$100?

A. Oh, it would exceed a thousand.

Q. I will ask you if the F. & F. Company has a regular schedule of freight tariffs?

A. I haven't got anything but hearsay.

315 Q. Do you know whether they have or not? Do you know of any regular schedule of tariffs that have been published?

A. They never had anything published, that is what the superintendent told me.

Q. As a passenger tariff, do you know of any regular schedule of passenger tariffs that they have.

A. The employees of the company went to the office to get a pass, and the conductor collected 25 cents when he could from the rest of them.

Q. How often did they carry passengers for fare that you know of—do you know of more than one instance?

A. Yes sir.

Q. Of carrying passengers for fare?

A. Yes sir.

Q. How many instances do you know of?

A. Well I paid my fare twice myself.

Q. When?

A. Once in 1892 and once in 1891.

Q. You mean 1901 and 1902?

A. Yes sir.

Q. You paid it to the conductor?

A. Yes sir.

Q. Weren't you at that time in the employ of the company?

A. Yes sir.

Q. What did you pay the fare for?

A. I was in the employ but I didn't go to the office and get a pass.

Q. Do you mean to tell me the conductor didn't know the foreman of their own mill?

A. He was to collect a fare from them if they didn't have a pass.

Q. Wouldn't he let the foreman of the mill ride without a pass?

A. No sir.

Q. Don't you know he would?

A. I know he didn't.

316 Q. Did you see him every day?

A. Ten times a day, the biggest part of the time.

Q. Didn't he know you were employed by that company?

A. Yes sir.

Q. And didn't he know the character of your position?

A. Yes sir.

Q. Yet he would not let you ride without paying?

A. Yes sir, I paid him.

Q. How far did you ride for 25 cents?

A. It was both times going from the mill to South Manistique.

Q. From the mill to South Manistique?

A. Yes sir, about four miles.

Q. Didn't you make complaint to Mr. Norris that this conductor was charging you fare?

A. No sir.

Q. Didn't you inquire as to whether it was turned into the company?

A. No sir. He had his badge on with "Conductor" marked on it, and a punch, and I supposed that he turned it in.

Q. You say you saw him a number of times a day. Did they run a train every day.

A. There may have been some days that they didn't run it.

Q. Isn't it a fact there was three days at a time they didn't run?

A. Not to my knowledge.

Q. Isn't it a fact that the trains were only run to suit the convenience of the F. & F. Lumber Company and to carry its logs.

A. Yes sir.

Q. When the F. & F. Lumber Company didn't have any logs to carry there were no trains?

A. Unless some of the other fellows had some to carry.

317 Q. Had the road any time card?

A. No sir.

Q. Or any time table?

A. No sir.

Q. Or any regular time for running trains?

A. No sir, no regular time card.

Q. They started out in the morning or in the afternoon, just as the convenience of the company indicated?

A. Yes sir.

Q. And ran on Friday or Saturday or Monday or skipped two or three days, just as the convenience of the company indicated?

A. Yes sir.

Q. Now you have said that this line crosses the Soo line?

A. No sir.

Q. Or does the Soo line cross it?

A. Yes sir.

Q. What sort of a settlement is there at the crossing of this road with the Soo line?

A. A settlement?

Q. Is there one house at the crossing?

A. There is a small freight shed, a very little one.

Q. That is everything?

A. Yes sir.

Q. Is there a "Y" from one road to the other?

A. Yes sir—no there is not a "Y."

Q. What is there?

A. There is just simply one switch that comes in on the west side of the F. & F. logging road with an interlocking switch and it runs up on to the F. & F. road.

Q. It is arranged so that a car can be run from one road to the other.

A. Yes sir.

Q. Do you know of any of the cars of the F. & F. Company ever being taken out on to the Soo line?

A. No sir, I don't.

318 Q. Isn't it a fact they do not take them out upon that line and put them into the trains of the Soo line?

A. No sir. They put them into the M. & M. trains through.

Q. What are the M. & M. trains?

A. They run from Southtown to Shingletown.

Q. There is no junction of the F. & F. Company line and the M. & M. Company line?

A. Yes sir.

Q. Where is that?

A. They connect at Southtown, at South Manistique.

Q. Do you know of a car from the Soo Company's line going over the F. & F. Company's line, do you know of such an instance?

A. Hundreds of them, sir.

Q. The cars were consigned to the F. & F. Company's lumber yard, that is, the destination was that mill?

A. No sir, the Delta Junction.

Q. Where is the Delta Junction?

A. That is where the Soo line and the F. & F. crosses.

Q. They were consigned to the Delta Junction?

A. Yes sir.

Q. From there they were taken by the F. & F. Company's engine down to its mill?

A. Sometimes to the mill and sometimes up in the woods.

Q. What character of freight?

A. Principally pulp wood, ties and posts.

Q. What were they drawing pulp wood, ties and posts from the Soo line up into the woods for, what was the purpose of that?

A. They would bring the empty boxes up into the road and load them and bring them back.

319 Q. They would take the empty boxes?

A. Yes sir. The Soo line would set them in at the junction, the empty boxes.

Q. Then when they were set in at the junction the M. & M. Company's engine would take them into the woods?

A. The F. & F.

Q. Where is Mr. Norris today?

A. That is more than I can tell sir.

Q. When did you last see him?

A. I saw him yesterday morning about eight o'clock.

Q. Where?

A. On his dock.

Q. Were you subpoenaed to come here, did the officer serve a subpoena on you and bring you here?

A. He sent me here.

Q. Who?—did Mr. Norris send you here?

A. No sir.

Q. Who sent you here?

A. A man gave me a paper and paid my fare down here.

Q. Was it Mr. Dolph?

A. I never met the man before.

It might have been a subpoena and it might not, for all I know, I am not much posted on that.

Q. Do you know Mr. Dolph, Mr. Jacob Dolph, the deputy United States marshal at Marquette?

A. I have met him yes sir.

Q. Was he the man that served the paper on you?

A. Yes sir.

Q. Is he here today?

A. I don't see him today, I left him at Manistique.

Q. Do you know whether there is any agreement between the F. & F. Lumber Company and these companies that maintain these lumber camps to carry their forest products?

A. I don't know anything about that, I couldn't say, but I know they drew their stuff down there.

Q. You don't know that there is any agreement between them?

A. No sir.

Q. Isn't it a fact that all of the transportation of forest products or freight over that line has been the subject of special contract and has been on special contract in each case, and a special arrangement for each separate transportation, and isn't it a fact that every time the F. & F. Company carries any forest product for one of these companies, it makes an arrangement for each time?

A. I couldn't say.

Redirect examination by Mr. BUTTERFIELD:

Q. You spoke of going from Thompson to South Manistique on the F. & F. road?

A. Yes sir.

Q. That is not what you call the main line?

A. No sir.

Q. There is a branch that runs from Thompson to South Manistique?

A. Right along the lake shore.

Q. And there it connects with the M. & M. road?

A. Yes sir.

Q. What does that stand for—it is the M. & N., isn't it?

A. It was the M. & N. yes sir, the Manistique & Northwestern, and it is the L. M. & M. now.

Q. What does that stand for?

A. The Leelenaw, Manistique & Marquette.

321 Q. I don't know that I understand you perfectly. You said it was the cars of the F. & F. road that go onto the M. & N. road?

A. Yes sir.

Q. But they do not go onto the Soo line.

A. I never saw any of them go onto the Soo line.

Q. Do you know whether the F. & F. road has a schedule of freight rates?

A. No sir, I do not.

Q. You don't know about that?

A. No sir.

Recross-examination by Mr. WYCKES:

Q. Is this F. & F. Company's road in the same place that it was when you first went to work for them.

A. It has a branch that runs from the mill to Southtown, that is in the same place, and also the main line of the road going up until it gets way up in the woods, and sometimes they will take it up, take the end of it up and throw it around some other place. This year I have seen new carloads of steel in there.

Q. Then only a part of it which forms a direct line from the woods to the mill remains in the same place, is that so?

A. Well, it is only just the branches that they move.

Q. They move the part that is necessary to move to get at the timber?

A. Yes sir.

Q. A part of it that forms the direct line from the woods through the part that is cleared from the woods to the mill, they leave that stationary.

A. Yes sir, they leave the stationary.

322 Q. And the rest is moved as the necessities and interests of the F. & F. Lumber Company's business require?

A. Yes sir.

Q. Now you have said that cars were run from the F. & F. Company's line to the M. & N. Company's line?

A. Yes sir.

Q. How do you know that?

A. Because I was there when they went.

Q. You were there?

A. Yes sir.

Q. Where?

A. They used to lumber, they brought down 18 or 20 millions that was cut up on the upper end of the Manistique & Northwestern road, and the F. & F. cars would go right from the F. & F. mill clear up into the woods all the way over the Manistique & Northwestern road, and sometimes the F. & F. engine would run up there

and bring them down, and sometimes the M. & N. engine would draw them over to the F. & F. mill.

Q. The train was run then to take the lumbering crew of the F. & F. Company up to the lumber camp that it has on the M. & N. road.

A. And to bring the logs down.

Q. To bring the logs down to their own mill?

A. Yes sir.

Q. You don't know of any cars going on to the line for the purpose of carrying freight for other people other than the F. & F. Company?

A. No sir.

323 HERBERT E. STONE, on behalf of complainant.

Direct examination by Mr. ANGELL:

I reside at Flint, Genesee county. I have been in the employ of the tax commission as field examiner; for about two years previously a farmer, and have held the offices of township treasurer, township clerk, supervisor.

Have worked principally in the counties of Kalamazoo, Macomb, St. Clair, Jackson, Calhoun, Oakland, Ionia, Lapeer, Livingston, Cheboygan and Eaton, beginning in November, 1901.

To verify the considerations we went to three person that bought the property or the person that sold it, and satisfied ourselves that it was the actual consideration paid, and in addition made inquiries of persons who might be supposed to know about the value of real estate in the different townships. The first man we saw would be the supervisor. We made an examination of the properties which had been sold, that being the universal custom. We drove on every section of land in a county where there was a road to it where the sale property took us. We selected the pickups from the county atlas, trying to get one piece on each section of land, and as we drove about would examine the piece determined upon.

I worked with Mr. Bibbins about seven months.

(Under objection, by Mr. Townsend, of incompetent and calling for an opinion.) I am of the opinion that Mr. Bibbins is a man of good judgment upon property. We almost always conferred together about questions of value after we had examined the property. We might differ a little at first, but usually reached a conclusion to which we could both agree. In examining farm properties we gave attention to improvements and took those into consideration.

(Under objection, by Mr. Townsend of incompetent.) I should say that I was competent to pass an opinion upon that question.

I was for three years a director of the Farmers' Mutual
324 Fire Insurance Company and made a resurvey in three townships of all of the buildings and re-insured them. I have the sheets of Calhoun county before me. I made reports to the tax commission covering the parcels investigated in each township. I

made a part of it and Mr. Bibbins made a part, the results of those sheets were carried forward into the paper marked Exhibit N. I have compared the original sheets with them, so I can state that the footings were carried forward.

Mr. TOWNSEND: I object to the sheet as incompetent.
Referring to Exhibit N, witness testifies as follows:

Township.	Sales.				Pickups.			
	No. ex.	As'd val.	Verf. con.	True val.	No. ex.	As'd.	True val.	%
Albion	3	\$9,600	\$10,600	\$10,600	31	\$114,600	\$134,400	85.3
Burlington	11	9,200	14,150	14,150	42	89,900	117,050	76.8
Convis	00				36	61,000	74,750	81.6
Emmet	5	6,600	8,550	8,550	34	101,290	119,700	84.1
Fredonia	8	14,200	19,300	19,300	36	88,900	114,700	76.9
Homer	21	26,585	37,400	37,400	49	111,420	143,050	76.4
Marshall	3	11,700	13,300	13,300	34	125,200	156,700	80.4
Newton	7	13,400	20,550	20,550	35	93,400	128,000	71.9
Penfield	6	15,500	17,000	17,000	36	90,650	103,950	87.8
Albion city—								
1st ward	10	6,750	9,024	9,024	14	14,850	56,200	80.6
2nd "	13	10,300	12,850	12,850	8	27,400	33,700	81.
3rd "	11	14,100	18,300	18,300	10	73,400	93,700	85.8
4th "	10	11,100	12,525	12,525	11	37,250	43,950	85.6
Battle Creek	110	147,950	222,615	222,615	59	620,500	846,050	71.9
Marshall—								
1st ward	9	8,900	16,550	16,550	10	29,500	41,500	66.1
2nd "	9	10,650	12,371	12,371	10	59,000	67,600	87.1
3rd "	10	8,100	11,200	11,200	9	57,000	70,800	79.4
4th "	4	2,100	3,050	3,050	17	22,225	31,050	71.3

Paper marked as Exhibit W shown witness. This is the complete report of the county of Oakland, one of the tabulations found in the files and records of the State tax commission.

(Mr. ANGELL: I offer Exhibit W in evidence.)

(Mr. TOWNSEND: I object to it as incompetent and immaterial, and not made within the knowledge of the witness.)

There are twenty-five townships in Oakland county, twenty-three of which I examined.

The two which I did not examine are Groveland and Springfield. I have before me the detailed sheets of my reports of that county. I have compared the paper marked Exhibit W with the work which I turned in myself, that is the footings, and know that they correspond.

The witness refers to his reports and to Exhibit W and testifies as follows:

325	Township.	Sales.				Pickups.			
		No. ex.	As'd val.	Verf. con.	True val.	No. ex.	As'd val.	True.	%
	Addison	7	\$10,250	\$13,350	\$12,850	32	\$64,600	\$80,400	80.3
	Avon	23	37,250	62,485	57,200	40	132,150	166,100	75.9
	Bloomfield	25	30,250	42,405	41,150	46	183,750	210,150	85.2
	Brandon	12	11,825	15,950	15,950	33	60,650	72,850	81.6
	Commerce	10	13,050	17,625	18,025	33	72,700	92,300	77.7
	Farmington	17	36,350	48,260	47,150	33	117,650	148,950	78.5
	Highland	8	10,550	14,150	14,150	33	67,100	85,000	78.3
	Holly	23	19,450	29,200	29,000	56	94,625	140,000	67.5
	Independence	10	6,150	7,375	7,075	33	99,100	109,550	90.2
	Lyon	12	18,750	21,950	25,950	33	100,000	118,200	84.
	Milford	18	21,000	26,675	26,815	51	107,600	127,600	83.3
	Novi	11	20,650	25,900	25,900	32	97,100	110,600	86.3
	Oakland	5	10,700	11,650	11,650	29	79,950	87,300	91.6
	Orion	13	18,350	24,900	24,550	31	75,220	100,880	74.6
	Oxford	22	18,550	27,395	26,925	49	111,150	151,250	72.8
	Pontiac	13	18,800	25,700	25,400	29	115,600	142,800	79.9
	Rose	6	6,900	9,850	9,750	36	64,700	82,500	77.6
	Royal Oak	15	21,100	39,520	37,800	33	67,550	102,350	63.3
	Southfield	7	11,500	17,520	16,500	33	113,500	133,700	83.2
	Troy	18	34,300	47,490	47,200	33	122,300	157,300	76.6
	Waterford	8	13,500	17,850	17,550	33	97,950	115,700	83.6
	West Bloomfield	11	26,000	36,650	36,200	33	79,300	107,500	73.3
	White Lake	8	9,950	14,165	13,965	32	63,700	76,900	81.1
	Pontiac city	93	134,825	155,761	158,300	23	164,300	179,005	88.7

In selecting lands called pickups, we knew nothing about whether we were getting an average piece or not, but got it from the map in the first instance. We endeavored to form an estimate of the value of the piece selected relative to other lands surrounding it, and we were able in that way, in my judgment, to form a reasonable accurate conclusion as to the value of the land in the township. We talked with the supervisors in almost every township.

(Under objection, by Mr. Townsend, of incompetent and immaterial and hearsay.) They would invariably say that they were assessing their properties at cash value, or at a percentage of it. We would ask them if they were assessing at cash value, and they would say yes most always, but we found scarcely any instance where they were assessing at cash value.

They claimed to assess at cash value, but did not do it. They apparently tried to treat all their constituents alike, the percentage at which they treated them would vary in different townships very much. They sometimes admitted after our examination of the properties that they were not assessing at true cash value, and sometimes would insist to the end that they were.

(Mr. TOWNSEND: This is all taken subject to our objection of incompetent and hearsay evidence, also as immaterial.)

Cross-examination by Mr. TOWNSEND:

Did not mean to say that he had compared and footed all the items on his reports of the counties of Calhoun and Oakland. I mean that I compared the footings of the reports with Exhibits N and W. I could not say whether the figures on the paper marked Exhibit W are correct. Did not make all of the figures on the paper that I have been testifying from, in Calhoun and Oakland. Mr. Wilkinson made some and Mr. Bibbins made some, my wife made some. I compared those after they were made from my field book.

They were then sent to the office. I don't know what they did with them there.

(Mr. TOWNSEND: I desire to move to strike out the testimony of this witness as to the assessments and valuations and work done in Calhoun and Oakland counties, for the reason that the same is incompetent; he has read from sheets which have not been verified, and which the witness did not make.)

(Mr. BUTTERFIELD: We expect to show by another witness that the footings which appear on the sheets are correct.)

Commissioner Sayre recommended me for appointment.

The supervisors invariably insist that they were assessing property at the cash value. As a class of men, for intelligence, honesty, and character, I think the supervisors were as good a class as any. I think that a man familiar with the assessing district has a better knowledge than a stranger would, and would make a better assessment. I spent three or three and one-half days in a township.

It keeps you quite busy driving to go over a township in three days and a half, and depends on the roads and the weather. It does not give you time to get out and go back to the end of very many farms.

We rather run through a country and look it over. We took an average piece by looking at the map, and drove by that piece forming an estimate about it.

The supervisor would certainly have a better knowledge of the land than I would, having lived in the community. The only opportunity for determining the quality of the soil was what we could see on the highway. We found some land that was assessed at cash value, and in exceptional cases more than cash value. In Battle Creek we examined about 160 pieces. There are in that city about 6000 pieces, which would be less than .3 of 1 per cent. examined.

I think that is a fair way of determining the value of the property in the city of Battle Creek. We figured the sales value as the actual value all through that vicinity, and all through the county

of Calhoun our reports were made on that basis. The verified consideration was the same as the actual consideration. We found that in Calhoun county they had been putting the consideration in the deeds at actually what they received. If we had examined .6 of 1 per cent. of the holdings in Battle Creek, that would not have made any difference in the per cent., if they had had a relative assessment.

“Q. Figure out, if you will, foot up for me the first half of the assessed value and the verified value that you had there, both of the sales and the pickups, and tell me what the per cent. is—take the first ten of them, and also put in the first page of the pickups. What per cent. do you find the assessed value is of the total?

A. Very nearly 32%, not quite.

Q. A little less than 32%?

A. Yes, sir.

Q. And what did you find the assessed and real value was of the city of Battle Creek, the whole of it, according to your testimony a little while ago?

A. I think it was 71.9.

Q. So in examining 160 pieces you find the per cent. is 71.9, do you?

A. Yes, it seemed that way.

Q. But upon examining one-half as many of the sales and the first page of your pickups, you find the per cent. to be what?

A. Thirty-two.

328 Q. Less than 32, isn't it?

A. Yes, a little less than 32.

Q. Does it make any difference whether you examine many or few pieces?

A. It depends on the assessment, whether it is relative or not. The lower it is assessed it makes a difference every time on certain classes of property.

Q. Then is it possible for you to determine the value of a township by examining any number of pieces fewer than the whole.

A. Not to be accurate.

Q. But it may make a great difference as to the number of pieces you examine?

A. It might; yes, sir.

Q. And it did right in that case?

A. It did in that case; yes, sir.

Q. More than 100%—it made a difference of more than 100% whether you examined sixteen or 160, did it not?

A. Yes sir.”

He could not say then that we picked an average piece by looking at the map. Our method of selection was the same as that employed by the other men generally. I think though some of them have taken the specials or pickups on driving over the township. As illustrated by the figures above, it makes a great difference in what pieces you happen to hit on in making the investigation, but if they

have a relative assessment throughout the township, I don't think it would make any difference; if we got a piece pretty well assessed it raised the township.

If we got one below value it reduced it, so the value might not be the value of the township, though it ought to be somewhere near it. I didn't find any case where any two supervisors assessed their property at exactly the same percentage.

They varied somewhat, that is natural, of course. There are no two men that can assess the same district alike. Two field
329 men could not go there and determine the same value, that is an impossibility. If they had happened to pick out different pieces on the map, it might have been still more widely different, depending upon the assessment. I find that very few townships are assessed relatively, very few. We found that the smaller properties, undesirable property, is assessed nearer to what it is worth than the larger ones, the better class of property, and we find that all through the State.

Redirect examination :

(Under objection, by Mr. Townsend of incompetent and hearsay.) The supervisors say that they are assessing with relative uniformity.

They would not admit that they were discriminating between different descriptions and different persons. We would find that to be the case though.

Recross examination :

They would say that they were assessing all alike, the poor and the good all the same, and that at cash value. That they were following the law as they saw it.

330 FRED M. TWISS, recalled by defendant.

Direct examination by Mr. WYKES :

In 1902 there was a general review of the assessments of the city of Port Huron, the field men of the commission fixing values upon each individual piece of property in the several wards of the city.

I had charge of the re-assessment. Each piece of property in the city was inspected and the field notes contain a description of each parcel with the assessed valuation and the valuation placed by the field men.

Referring to books (afterwards marked Defendant's Exhibits 2 to 11, February 16, 1901), columns 1 and 2 of the exhibits contains the figures given to the field men, column 1 contains the description, and column 2 the assessed valuation for 1902.

The third column contains the valuation of the land as fixed by the field men; the fourth column, the value of the buildings and the fifth column the total. This was the shape in which it was re-

ported by the field men to the board. After the field notes were turned in to the board, it decided that a reduction from the total valuation amounting to about 10 per cent. should be made, and the last column in these exhibits represents the values fixed by the tax commission at the review and the figures contained in this last column are the figures which finally went on the roll as the assessed value.

The examination made in the city of Port Huron was as careful as any the tax commission has made anywhere.

I think it is true that the values fixed by the tax commission are almost uniformly less by about 10 per cent. than the values fixed by the field men, and in particular parcels the reductions run as high as 15 per cent.

In some cases the commission did not change the estimate of the field men. In the 4th and 6th wards but few of the figures were changed.

331 Cross-examination by Mr. ANGELL:

In this work I had general supervision of the field men. Worked in different wards. I formed my judgment as to the relative work of the different men and reported to the commission the result of my investigations. I thought some of the men were more conservative than others. After the whole roll was completed by the field men, the board in some instances made reductions for the sake of being on the safe side.

The tax commissioners themselves made an examination of the property of the city so that they were in a position to exercise an intelligent judgment as to the value of the property, and if they fixed a value 15 per cent. less than the field men, I should say that they had given a sufficiently close inspection to qualify them to do so.

332 W. G. DAVIDSON, on behalf of complainant.

Direct examination by Mr. ANGELL:

Reside in Midland. Have been employed by tax commission as field examiner for over two years, previously in office county treasurer of Midland county a year, and have worked in the county clerk's office since twelve or fourteen years old, part of the time as deputy; am now twenty-nine. In my work in the county offices became familiar with the routine work in tax matters, having had occasion repeatedly to attend the meetings of the board of supervisors.

I have never been an assessing officer myself.

As field man my duties have been to examine real estate, fix values and compare assessments, and look over the rolls in general. I have worked in Sanilac, Huron, St. Clair, Macomb, Wayne, Menominee, Delta, Gladwin, Ogemaw and Clinton counties. Was in

Menominee county in July, 1902, with Mr. Rolph. We made a full examination in the city and some of the townships. In other townships not so good an examination, though we were in every township.

In Delta county we examined the city and certain townships, in some townships we worked together, and in others alone. From the report I could not state which townships I worked. I do not remember whether they were in my handwriting or Mr. Rolph's.

On these sheets (Delta County Report) there are certain sale properties and certain pickups. And we gave our own judgment of the value of the property, the verified considerations, and assessed value, and we also gave the assessed and actual value of the pickups.

"Q. Now will you state whether the figures which appear under those different headings of verified considerations and assessments were the correct figures as you found them to be.

333 Mr. TOWNSEND: I object to it as incompetent, and immaterial, the witness having testified that he did not know which townships he examined and some of them were examined by Mr. Rolph and some by him.

Q. I will add to the question this, if the question is not broad enough: So far as those figures bear upon townships which you yourself examined?

A. Well, I don't know as I examined a township alone in Delta county; I think I was in nearly every township, but Mr. Rolph was in some alone."

So far as I worked with Mr. Rolph the figures on these reports are made up of the results of our joint investigations and joint conclusions, and are the result of our honest findings of fact and of opinion.

(Mr. TOWNSEND: I object to that further as incompetent. This man cannot tell if it was the honest opinion of the other man or not.)

(Under the same objection by Mr. Townsend.) The figures entered in the columns headed "true value" expressed our honest judgment at the time as to the value; we acquainted ourselves with the facts and conditions before we formed our judgment, and had a record of the sales for a couple of years, and talked with real estate and lumbermen.

We discussed the values with the supervisor and assessing officers, and our conclusions were the result of all the facts acquired. We examined the different parcels of land on the pickup list, and verified the considerations of the sales by talking with the parties or one of the parties, and are still willing to stand by the report we made.

I worked the whole county of Clinton, with the exception of 3 or

4 townships (Bath, Victor, DeWitt). The manuscript you hand me are the field men's reports of Clinton county.

334 I have before me my sheet for the township of Bengal which I examined.

The pencil footings are not my own. I find that the totals of my report for the township of Bengal were correctly carried to the tabulation, Exhibit K.

Part of Clinton county examined by W. G. Davidson.

Township.	Sales.				Pickups.			
	No. ex.	As'd val.	Verf. con.	True val.	No. ex.	As'd val.	True val.	%
Bengal	18	\$37,350	\$51,700	\$49,850	54	\$142,240	\$192,500	73.9
Bingham	69	84,850	107,460	105,675	121	264,500	308,075	82.6
Dallas	28	42,100	60,725	58,825	65	145,900	187,625	77.8
Du Plain	37	40,725	55,555	55,605	67	114,350	153,505	74.5
Eagle	16	41,480	49,545	47,545	46	140,080	159,245	88.
Essex	20	42,530	58,750	57,650	49	132,380	173,940	76.1
Greenbush	21	22,230	33,825	33,825	52	94,820	136,975	69.2
Lebanon	22	36,775	45,982	44,950	63	142,700	174,050	82.
Olive	27	41,770	68,175	65,975	59	114,000	171,375	66.6
Ovid	64	91,350	110,992	110,992	105	219,500	262,792	83.5
Riley	23	43,400	59,900	57,975	53	118,250	155,975	75.8
Watertown	33	67,230	95,750	94,500	65	166,180	230,000	72.3
Westphalia	25	41,650	65,125	60,925	60	136,950	190,675	71.8

On some of the properties there was no value placed by me, or the considerations were simply verified, and I see that in the office they have put the verified consideration in as the true value.

The methods pursued in reaching values in the county of Clinton were the same as stated in reference to the county of Delta. I don't think that the value of most of the townships is considerably less than 75 % as that was a pretty good county.

As compared with other counties this county was pretty well assessed by the local assessing officers.

(Under objection by Mr. Townsend of incompetent, immaterial and hearsay.) There were a number of supervisors who thought they were assessing at cash value. Some of the others claimed, and some did not, that they attempted to put each piece of property at about the same percentage as every other piece.

I don't know that my investigations indicated that they were assessing at a relatively uniform per cent., some of them were trying to assess at cash value, and others were not. I believe they were trying to treat everyone alike, and that is generally true in the county of Clinton.

335 "Q. You didn't find, I infer, that any of them were assessing at full cash value from your report?

A. No, sir."

(Mr. TOWNSEND: That is objected to as leading.) I think the examination in Clinton county was more complete than in some of the other counties.

I was better satisfied with the results there than in some of the more difficult counties, and I exercised as good care and discrimination there as I knew how, or as I did in any county.

Cross-examination by Mr. TOWNSEND:

I did my work practically as Mr. Stone and Mr. Bibbins did. Did not get my pickups from the map. Got them sometimes before I saw the supervisor, while I was driving into the township, I would make the pickups or a part of them before I saw the supervisor or the assessment roll. After I saw the supervisor, I might take some off the roll and some off the map.

I found in looking it over that the supervisors were not assessing all their properties at the same rate, in the other counties mentioned I did not have so good an opportunity of looking them over as in Clinton county. The property that was examined was examined with the same care, but in this county there was more property examined. It makes a different estimate where you examine more property than where you examine less. It would not be possible to get a perfect valuation on any examination less than the whole.

Does not think the variation in percentage from 32% to 70% by the examination of more or less pieces, as found by Mr. Stone in Battle Creek, would exist in the county of Clinton, because in that county the property is assessed quite uniformly, and it could not have gotten as low as 32%. It might have been higher than found according to the number of pieces examined, but there would not be as much difference as that spoken of in Battle Creek.

336 Was satisfied that in a great many instances the supervisor did actually discriminate in assessing.

(Mr. ANGELL: I object to the question and move to strike it out and the answer also.)

I spent three days in a township, in some counties it would keep us busy driving to get through a township in three days, sometimes it was longer than that. As a rule we did not have a chance to get out and minutely examine properties but drove through the county and looked it over. I have gotten out of my rig to examine property, but as a general rule, did not.

Was a stranger to all the places where I made examinations. As a rule the supervisors are competent, honest men. There is no question but that a competent, intelligent, honest man, a resident of a township or assessing district, is more competent to assess property than a stranger, if he will use his judgment.

They never reduced my figures on a report that I made of a county. In my work in Port Huron they reduced my figures. This work was in 1902, when they made a general review of all property

of the city, and examined every piece,—after I had finished the commission lowered some of my figures. The examination carried on in Port Huron was similar to that in Clinton county, except that we did not examine every piece in Clinton county. Where we made examination of every piece in the city of Port Huron, the board concluded my valuations were too high.

Don't know as to the correctness of the sheets from which I called the numbers. (Evidently Exhibit K-1.)

When two of us worked together, sometimes one made a report and sometimes the other. After we sent it in to commission we knew nothing about it. I have looked them over previous to today, when I was interested in seeing whether the township was assessed up to the figures we made, or not. Aside from that I know nothing about these reports.

(Mr. TOWNSEND: I want to move, as I did before, to strike out the testimony of this witness as being incompetent, irrelevant and immaterial.)

Redirect examination:

I think the supervisors on the whole were fit to assess property if they used their best judgment. The reason they were not assessing at cash value was that each supervisor was looking after his own town, trying to get it equalized low. He didn't want to get it higher than his neighbor.

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Afternoon's Proceedings.

HENRY W. MAGOON being called as a witness on behalf of the complainants and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth testified as follows:

Direct examination by Mr. BUTTERFIELD:

Q. Where do you reside?

A. Boyne city, Michigan.

Q. How long have you resided in Boyne city?

A. About sixty days.

Q. Where did you reside previous to that time?

A. In Manistee.

Q. For how long had you resided there?

A. Oh, for about twelve years.

Q. What is your age?

A. 45.

Q. While you were residing in Manistee what was your business?

A. I was general office manager for Louis Sands.

Q. What is Louis Sands' business?

A. Louis Sands is a lumberman; he is a lumber and salt manufacturer.

Q. Does Louis Sands own and operate a railroad?

A. Yes sir.

Q. Please state the termini of the railroad.

A. The western end of it is at the Manistee river, what is known as jam-one, about twelve or thirteen miles from Kalkaska and it extends easterly to perhaps twenty-five miles into the timber in Kalkaska county.

Q. That railroad was in existence and in operation on the second Monday in April, 1902?

A. Yes sir.

339 Q. And how long had it been in operation if you know before that time?

A. They began operating it in 1896 I think.

Q. What is the construction of the railroad—how is it constructed, of what kind of rails?

A. Principally twenty-five to thirty pound steel rails.

Q. A T-rail?

A. Yes sir.

Q. And what is the gauge?

A. 38 inches.

Q. And the ordinary tie construction I suppose?

A. Yes sir.

Q. In other respects does it differ from the ordinary standard gauge railroad in its form of construction?

A. No sir, only that it is narrow and lighter rails; the general construction is the same.

Q. Has it switches and sidetracks?

A. Yes sir.

Q. Does it cross any other railroad?

A. It crosses the Kalkaska branch of the Pere Marquette, what is known as the Grand Rapids, Kalkaska and Southeastern, I think that is the name.

Q. I suppose it has no physical connection, being a different gauge?

A. No sir.

Q. How is the crossing operated, by an interlocker or by the flagging of trains and stopping?

A. Well sir, I don't know as to that; I think, however, that there is no interlocker; I think that the Sands logging trains always stop.

Q. The Pere Marquette has the right of way?

A. Yes sir.

340 Q. What sort of equipment has that road?

A. Wee, it has engines.

Q. How many engines?

A. Three.

Q. And how many cars?

A. Why, in the neighborhood of 50 or 60 logging flats, to my recollection.

Q. Has it any cabooses or way cars?

A. No sir.

Q. Any box cars?

A. I think there are two or three box cars.

Q. Does Mr. Sands carry freight on that railroad for other persons or corporations?

A. Well sometimes he does.

Q. Did he in the year 1902, if you know, carry freight for others?

A. Well I presume he did a little, yes sir. I could not say positively.

Q. What was the character of the freight, if any, carried for other people?

A. It would be in the nature of camp supplies, hay and grain and provisions and things of that kind.

Q. Were any forest products transported for others?

A. Yes sir; bark and some logs.

Q. Are you in any doubt about the logs and bark being carried in 1902 to some extent?

A. No sir.

Q. You know they were carried?

A. No sir.

Q. What you mean to be in doubt about is the camp supplies?

A. The camp supplies going up.

Q. Does he have a regular schedule of rates for transportation of freight?

A. No sir.

Q. How is the compensation regulated?

A. Well, it is made the subject of special bargain in each individual case.

Q. Are there any towns along the line of the road?

341 A. No sir.

Q. No settlements except lumber camps?

A. That is all. It may possibly pass a farm house or something of that kind.

Q. Does he, as a matter of fact, carry upon that railroad everything in the way of freight that is offered for transportation that they have any occasion to carry?

A. Yes sir; they try to secure whatever business can be secured at reasonable rates, no special efforts being made, however, to solicit it, it comes to them.

Q. Does he carry any passengers at all?

A. Well simply men who are going back and forth between the camps, they ride in the logging cars sometimes.

Q. Are there any camps there that are not owned by Mr. Sands—I take it there are.

A. Yes sir.

Q. He carries on his railroad not only men going to his own camps, but other camps.

A. That I could not say positively, but I presume that is true.

Q. Does he collect fare from passengers?

A. No sir.

Q. No charge whatever is made for passengers carried?

A. No sir.

Q. Mr. Sands in this business of operating a railroad has no partner or associate whatever?

A. No sir.

Q. He is the sole proprietor?

A. Yes sir.

Q. Where does Louis Sands live?

A. Manistee.

Q. And that was the condition of things in 1902 on the second Monday in April?

A. Yes sir.

342 Cross-examination by Mr. WYKES:

Q. You are not now employed by Mr. Sands?

A. No sir.

Q. Your employment terminated when?

A. August 1st.

Q. Where are you employed now?

A. I am at Boyne city, Michigan

Q. In what business?

A. I am in the lumber business, I am the manager of the Boyne City Lumber Company.

Q. Is Mr. Sands interested in the Boyne City Lumber Company?

A. No sir.

Q. You had general charge of Mr. Sands' business while you were with him?

A. Yes sir.

Q. Now this railroad is through unsettled territory entirely, is it not—and I mean by unsettled territory, territory without settlements?

A. Without cities or villages?

Q. Yes sir, without cities or villages or small towns.

A. Yes sir.

Q. And practically through the woods?

A. Yes sir.

Q. One terminus is at the Manistee river?

A. Yes sir.

Q. And there is no settlement there?

A. No sir; there is simply a postoffice and a store there.

Q. The cars simply stop there to dump the logs into the river

A. Yes sir.

Q. The other terminus is in Mr. Sands' own forest?

A. Yes sir.

Q. Now this road was built, was it not, for the sole purpose of carrying forest products for Mr. Sands himself?

A. That was the primary object of it yes sir.

343 Q. It was not built for the purpose of carrying freight or passengers for any one else?

A. Well of course he contemplated that he would go through other timber and it would naturally come to him.

Q. The idea was then that if there was any other timber cut it would assist him in paying the expenses of maintaining this road during the time it was maintained, that is what you mean?

A. Yes sir.

Q. But he did not build it for the purpose of continuing it after his logs were taken off as a railroad?

A. No sir.

Q. And that was his intention and is his intention at the present time?

A. So far as I know.

Q. To take that road up?

A. To take it up.

Q. When his own logs and the logs that he can purchase in that vicinity are taken off?

A. Yes sir; unless he should possibly find other timber; if there was a large group of timber and he could contract to haul it, and it would pay him to leave it there, I suppose he would.

Q. That would simply aid him in taking care of the expenses that it cost him to put the road there.

A. Yes sir.

Q. But he does not intend to go into the railroad business?

A. No sir.

Q. Now has this road been stationary during the 10 or 11 or 12 years that you have been connected with Mr. Sands—hasn't it been moving from place to place?

A. Yes sir.

Q. Where has he operated it?

344 A. In the Missaukee county from about 1891 to 1895 or 1896.

Q. Then the entire road was taken up.

A. Yes sir.

Q. And moved into its present location?

A. Into Kalkaska county, yes sir.

Q. And that was in 1896 you say?

A. Yes sir.

Q. From 1896 to the present time it has been engaged in carrying the forest products from this particular forest?

A. Yes sir.

Q. The road bed has not been the same during all that time?

A. The main line has been the same, but the branches are taken up and built new as the timber is cleared off; where they clear off one section of land they would take up the branches and lay them into other sections.

Q. He moves the branches then?

A. Yes sir.

Q. To suit his own business?

A. Yes sir.

Q. That is, his own logging business?

A. Yes sir.

Q. Then taking into consideration the character of the location, would you say that this road was adapted for carrying on a railroad business?

A. Not in a broad sense.

Q. Is it adapted for carrying passengers, in its present location?

A. No sir, I should say not.

Q. And for freight nothing but the forest products that are adjacent to it?

A. That would be all.

Q. And when this timber is off the present necessities of a railroad or a logging road in that location would be gone?

A. Yes sir.

Q. Do you know of any instance of carrying passengers over this road?

345 A. I do not.

Q. For hire?

A. No sir.

Q. If there had been any receipts from passenger business you would have known it?

A. Yes sir.

Q. And there were none?

A. There were none.

Q. Now as to the amount of freight: You have stated that the freight was limited to bark and a few other forest products?

A. Yes sir.

Q. And camp supplies?

A. Yes sir.

Q. Do you know anything of the receipts for that business?

A. I do not.

Q. Could you approximate it?

A. It would be a mere guess. During what period?

Q. If you can approximate it I will give you the years. During the year 1900?

A. Well I couldn't do it.

Q. You could not approximate it during the year 1900?

A. No sir.

Q. During the year 1899?

A. No sir.

Q. Or 1902?

A. No I could not. I couldn't give any idea it might possibly amount to a thousand dollars during the year and it might be two thousand.

Q. That was made the subject of special contract?

A. Yes sir.

Q. In each instance?

A. Yes sir.

Q. Now isn't it true that Mr. Sands did not hold himself out as a carrier of passengers and freight generally?

A. Yes sir, it is true that he did not.

346 Q. And when this road is taken up the material in it will either be sold as scrap iron or be devoted to the same use in some other location by Mr. Sands or sold to some other company for substantially this purpose?

A. Yes sir.

Q. Can you give me the value of this road approximately?

A. I could give it from memory of course. The construction account stands on Mr. Sands' books, I haven't seen those books for 60 days and it would be simply from memory.

Q. That is sufficient. Give your best recollection of what the road cost.

A. As near as I can remember the construction account stands from 70 to \$75,000 on Mr. Sands' books.

Q. And isn't it true that you made an affidavit that that road was worth substantially 40 to 45,000 dollars allowing for depreciation?

A. I think that would be a fair valuation of it.

Q. It would not exceed that?

A. I don't think so.

Q. But the first cost could not exceed \$75,000?

A. I think it didn't. I would not say that it couldn't.

Q. It is a fact it didn't exceed that?

A. It didn't. I say 75,000, it may be 76, or 78, you know.

Q. But from 70 to 75?

A. That is my recollection of the account as it stood upon the books.

Q. Do you know how near the timber is lumbered up in the neighborhood of this road?

A. I do not.

Q. Now, the road you have said is not standard gauge?

A. No sir.

347 Q. It has no physical connection with the railroad that it crosses?

A. No sir, any more than a side track running alongside of it.

Q. And the Sands road runs its trains subject to the Pere Marquette, that is, it makes the stop?

A. Yes sir.

Q. And it is impossible to interchange cars from one road to the other?

A. Yes sir.

Redirect examination by Mr. BUTTERFIELD:

Q. But do they, as a matter of fact, interchange freight on this side track you speak of—this side track running alongside of the

Pere Marquette is, I take it, for the transfer of freight from the Sands road to the Pere Marquette road?

A. Yes sir.

Q. Is it used to a considerable extent in that way?

A. To quite a considerable extent.

Q. I suppose in your experience as a lumberman and a manager of lumber business you have been in the woods on a good many logging roads, haven't you?

A. Yes sir.

Q. Have you ever been in the woods on any logging branches running off the Jackson, Lansing & Saginaw road?

A. I have not, no sir.

Q. Or running off the C. R. & I.—or where have you been on branches of other railroads?

A. I have been on the Cummer & Diggins road that used to be operated in east of Cadillac, and the Mitchell road and the Sands road, operated there; those three were close together.

348 Q. Was the Mitchell road a branch of any other road?

A. No sir that was a narrow gauge.

Q. Like the Sands road?

A. Yes sir.

Q. When did that cease to do business?

A. It is still in operation, it is in operation now.

Q. Do you know what the organization of the Mitchell Company is—is it a corporation?

A. I don't know, no sir.

Q. It is a custom, is it not, of all managements of logging branches of railroads to shift the branches from time to time to accommodate the traffic in the woods?

A. Yes sir.

Q. And I suppose it is the custom of railway management in general to take up a branch when it ceases to be useful.

A. Yes sir.

Q. And I suppose, so far as you know, if some great discovery of mineral wealth should be made at the terminus of the Sands road before the timber is taken out and a city should grow up there, it would not be very likely to be taken up, would it?

A. I should think not.

Mr. WYKES: We object to that as speculative.

Q. In other words, from what you know of Mr. Sands' plans I take it his plan is to use the road as long as it is a useful and profitable one, and when it ceases to be profitable or useful, to take it up.

A. That would be the natural conclusion.

Mr. BLAIR: We object to a natural conclusion of that character.

349 Q. Do you know whether there are any railroad companies, regularly organized railroad corporations in this State that

have moved, not only their branches, but their main line from one place to another within the last few years.

A. I don't know of any.

Mr. WYKES: I object to it as immaterial.

Q. Do you know that the Michigan Central, for instance, is at present building 12 miles of new double track railroad some of which is more than a mile from its present main line between Kalamazoo and Mattawan?

A. No sir, I don't.

Q. How long has the Mitchell Bros. road been in operation—what county did you say it was in?

A. Missaukee.

Q. How long has that been in operation, if you know?

A. I don't know.

Q. Was it in operation prior to 1902?

A. Oh yes sir; it was in operation in 1891 when I went to Lake City first for Mr. Sands, and it has been in operation continuously since that time, I know.

Q. What are the termini of that road?

A. Why the mill at Jennings, a small village east of Cadillac is the western terminus, and I don't know just the present eastern terminus of the road, except somewhere in their timber I suppose.

Q. In the woods?

A. In the woods.

Q. Do you know its length?

A. I do not.

Q. Well approximately—does it exceed 25 miles?

A. I should think it does. I should think somewhere from 25 to 30 miles.

350 Q. Is it built substantially like the Sands road?

A. Yes sir.

Q. Narrow gauge you say?

A. Yes sir.

Q. Three foot, two?

A. I think theirs is three foot exactly.

Q. And are there any towns on the line of the Mitchell Brothers road?

A. None that I know of.

Q. Except Jennings, which is their mill?

A. Yes sir.

Q. What connection has it with other railroads, if any?

A. None except that a branch of the C. R. & I. goes into Jennings.

Q. And there they transfer?

A. They transfer I presume.

Q. Do you know whether the Mitchell Brothers carry freight for others?

A. I don't positively, no sir. I think they do.

Q. Do you know whether they carry passengers or not?

A. I do not.

Q. What was the other road you mentioned in that vicinity there?

A. Cummer & Diggins, the Cummer Lumber Company.

Q. What is the style of the Mitchell Brothers business name do you know—is it Mitchell Bros. simply or the Mitchell Bros. Lumber Company?

A. Well I think it has recently been incorporated, during this last year, during 1903, it was Mitchell Bros. until sometime in this present year it was incorporated and it is called the Mitchell Bros. Lumber Company.

Mr. WYKES: We object to that. If it is incorporated it can be shown by better evidence.

Q. Prior to the year 1903 they were partners?

A. Yes sir.

Q. The Cummer Lumber Company is the other?

A. Yes sir.

351 Q. What are the termini of that road?

A. Well that road was taken up several years ago.

Q. It was not in operation in 1902 then?

A. No sir.

Q. Do you know of any other railroads of the kind you have been describing that are not operated by railroad companies?

A. The Manistee Lumber Company owned one in Kalkaska county near Mr. Sands' road.

Q. Is that a narrow gauge road?

A. Yes sir.

Q. A three foot gauge?

A. Yes sir.

Q. Is it built substantially like Sands' road?

A. Yes sir.

Q. How many miles long is that approximately, if you know?

A. 15 to 20.

Q. What are its termini?

A. Manistee river is the western terminus and it runs out into the woods into their timber.

Q. Do you know whether any freight is carried upon that road for other people?

A. I do not.

Q. Do you know whether they carry passengers or not?

A. I do not.

Q. Do you know the extent of its equipment?

A. I do not.

Recross-examination by Mr. WYKES:

Q. Who are the officers of the Manistee Lumber Company?

A. James Dempsey is president and I think William Wente is

secretary and treasurer, I don't know whether he is both combined or not, but I think he is secretary and treasurer though.

Q. Do you know that the Manistee Lumber Company has
352 been taking steps to organize under the general railroad law recently?

Mr. ANGELL: We object to it as immaterial.

A. I don't know that.

Q. You don't know that it is now organized under the general law?

A. No sir.

Q. You don't know that it is at present organized as the Crawford & Manistee River Railroad Company?

A. No sir.

Q. And is assessed under the law for the assessment of railroad companies by the State board of assessors?

A. No sir.

Mr. BUTTERFIELD: Was it assessed in 1902?

Mr. WYKES: In 1902.

Q. You have spoken of the Mitchell Bros. road in Missaukee county; have you ever been on the line of this road in Missaukee county?

A. Yes sir.

Q. Recently?

A. No sir.

Q. When?

A. Well I was over it frequently from 1891 to 1896 while I was living at Lake City.

Q. Do you know that it is still operated at the present time?

A. Yes sir.

Q. The Cummer & Diggins road you say has been taken up?

A. Yes sir.

Q. Where did you get your information that they were carrying freight or passengers?

A. Who?

Q. The Mitchell Brothers road?

A. I didn't say that they were.

Q. You said you didn't know, I thought you said you thought they were?

A. No sir, I don't know.

353 Q. You have no knowledge that they are carrying freight or passengers or doing any other business than carrying their own products?

A. No sir.

Mr. ANGELL: Do you admit that the book produced by the defendant is the original annual report of the Lake Shore & Michigan Southern Railway Company to the State board of assessors for the State of Michigan made in the year 1902.

Mr. TOWNSEND: Yes sir.

Mr. ANGELL: On behalf of the Lake Shore & Michigan Southern Railway Company I desire to offer in evidence a portion of this report found on page 31:

"Current Assets and Liabilities.

Cash and current assets available for payment of current liabilities:

Cash	\$937,735.89
Bills receivable.....	248.02
Due from agents	789,004.57
Due from solvent companies and individuals.....	779,850.34
Net traffic balances due from other companies.....	53,925.74
Other cash assets excluding materials and supplies.....	79,192.18
Materials and supplies on hand	1,116,064.46

354 Total cash and current assets.....	2,639,965.74
Balance current liabilities.....	8,198,950.13

Total 10,838,906.87

Current liabilities accrued to and including April 14, 1902:

Receivers' certificates.....	None.
Loans and bills payable.....	5,250,000.00
Audited vouchers and accounts.....	2,792,484.87
Wages and salaries.....	922,368.42
Net traffic balances due to other companies.....	000,000
Dividends not called for.....	1,773,935.55
Matured interest coupons unpaid including coupons due April 14.....	34,956.24
Rents due April 14.....	65,161.79
Miscellaneous	None.

Total current liabilities..... 10,838,906.87

Mr. BUTTERFIELD: I desire to read from the house journal of the legislature of this State the extra session from October 10 to 15th in the year 1900, on page 14 of that document, a portion of the governor's message.

Mr. TOWNSEND: I object to it as incompetent and immaterial.

Mr. BUTTERFIELD: It reads as follows:

"The following is a table showing:

1. The full value of the tangible property of the Ann Arbor
355 railroad and the Detroit, Grand Haven & Milwaukee railroad
made by Professor Cooley.

2. 65% of the full value of the tangible property.

3. Amount of taxes paid for year 1899 under the present law bearing earnings.

4. The actual rate of taxation as based upon the valuation of the tangible property (at 65% of the full cash value of the tangible property) that is now being paid under the system of taxation upon earnings.

5. Amount of taxes which the railroads would pay at 2% of the valuation of the tangible property (at 65% of the full cash value) and this amount of taxes which the railroads would pay at 2% of the full value of the tangible property. In these comparisons I use 65% of the full cash value because that is the average of assessment throughout the State according to a computation made by a member of the State board of tax commissioners; the average rate of taxation in the State is nearly 2½% (also computed at a member of the tax commission) but I have used 2% in showing what taxes these railroads should pay if they were assessed upon cash value at the same proportion of full value, namely 65%, as other property in the State is assessed, and at the same rate as other property in the State is taxed.

The official computation of the tax commission upon these two points may be completed before this session ends.

356 B. F. BURLASS, on behalf of complainant.

Direct examination by Mr. BUTTERFIELD :

Reside in Manchester, Washtenaw county; employed as clerk by the tax commission, age 26. I have verified the figures contained in Exhibits H-1, I, N, K-1, T and W, being tabulated summaries for Montcalm, Shiawassee, Calhoun, Clinton, Delta and Oakland counties.

(Objection by Mr. Townsend of incompetent, immaterial and irrelevant.)

Have computed the percentage of assessed to actual value on the totals of the pickups and sales combined, on all counties except Calhoun, and Oakland is nearly completed.

(Same objection by Mr. Townsend.)

The sheets are, after correction of errors found, now correct abstracts of the reports of the field examiners as they appear among records of State tax commission. I have found errors which affect percentage in Bingham township in Clinton county, this sheet showed no pickups, and I found 52 pickups, which would change the percentage from 80.3 to 82.6.

The township of Watertown in the same county is changed from 72.4 to 71.1 %.

At the review held at Marshall this year, the supervisor of Convis township introduced a few sales that the commissioner decided to put in here which changed the per cent. somewhat. The same applies to the township of Homer, same county. Other than what

has been said, these exhibits to the best of my knowledge and belief are absolutely correct.

Mr. BUTTERFIELD: I reoffer Exhibits H-1, I, N, K-1, T and
357 W in evidence.

(Mr. TOWNSEND: I object for the reasons before stated.)

These tables are based on the report of the field men for 1902. At the review in 1903 there were additional sales put in.

358 Proceedings of Wednesday, October 28th, 1903.

J. N. O'BOYLE being called as a witness on behalf of the complainants and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth testified as follows:

Direct examination by Mr. ANGELL:

Q. Where do you reside?

A. Cleveland, Ohio.

Q. What is your business?

A. Well, I am connected with the Lake Shore road; I suppose you may call it the position of chief clerk in the audit department.

Q. Chief clerk in the auditor's department?

A. Yes sir.

Q. How long have you been connected with the auditor's department of the Lake Shore road?

A. Well, since 1891.

Q. Have you become familiar with the proprietary lines that are operated by the Lake Shore Company?

A. Yes sir.

Q. Do you know what they are?

A. Yes sir.

Q. Does the Lake Shore manage, operate and control the railroad of the Detroit, Hillsdale and Southwestern Company?

A. Yes sir.

Q. Is the same thing true of the Detroit, Monroe and Toledo Rail Road Company?

A. Yes sir.

Q. And of the Fort Wayne and Jackson Rail Road Company?

A. Yes sir.

Q. And of the Kalamazoo, Allegan and Grand Rapids Rail
359 Road Company?

A. Yes sir.

Q. And of the Kalamazoo and White Pigeon Rail Road Company?

A. Yes sir.

Q. And of the Northern Central Michigan Rail Road Company?

A. Yes sir.

Q. And of the Detroit and Chicago Rail Road Company?

A. Yes sir.

Q. Of the Sturgis, Goshen and St. Louis Rail Road Company?

A. Yes sir.

Q. Of the Detroit, Toledo and Milwaukee Rail Road Company?

A. Yes sir.

Q. Does the rail road property of each of the companies named include real estate within the State of Michigan?

A. Yes sir.

Q. To a considerable extent in each case?

A. Yes sir.

Q. Are you acquainted with the counties through which the line of either the Lake Shore Company itself or the lines of these various subordinate companies pass so that if I read you a list you could tell whether that was correct or not?

A. Yes sir.

Q. Whether you could recite it?

A. No sir, I could not recite it.

Q. I will give the counties to you and ask you a question: Will you state whether the rail road properties of the companies you have just named in your prior answers, and of the Lake Shore and Michigan Southern Rail Road Company itself lie in some one or more of the following counties; namely: The counties of Monroe, Lenawee, Hilldale, Branch, St. Joseph, Kalamazoo, Allegan, Kent, Calhoun, Jackson, Washtenaw, Wayne, Ingham, Barry and Eaton?

A. Yes sir.

Q. During January 1903 and the months immediately before that will you state whether notices as to tax matters in Michigan passed through your office and through your hands?

A. Yes sir, they did.

Q. Will you state whether between the 12th of January 1903 and the 16th of January of the same year you received any notice of any kind whatever from the State board of assessors or any of its agents?

A. Between the 12th and the 16th?

Q. Yes sir?

A. I remember that we got quite a batch of correspondence from them advising of the assessments that had been made.

Q. Was that during those dates or before or after?

A. Well, it was prior to that.

Q. Confine your answer to the dates I mentioned?

A. No, I didn't receive any.

Q. Did you receive any advise from any one until after the 16th of January that the assessment of the various companies named had been increased from its original figure by the net sum of one million of dollars?

A. No, sir.

Q. Did you in fact know that such increase had been made by the State board from the figures as given to you?

A. No, sir.

Q. Until after the 16th of January ?

A. No sir.

Q. Between the dates already named, the 12th to the 16th of January state whether you received any notice of an opportunity to be heard upon the question of any increase by the State

361 board of tax assessors?

A. No sir.

Q. Referring to the Lake Shore Company and the subordinate companies whose names I have already read you may state what if any arrangement exists whereby the Lake Shore Company has anything to do with the payment of taxes levied upon the subordinate companies?

A. What they have to do with it?

Q. Yes sir?

A. They pay them.

Q. That is the custom?

A. Yes sir that is the custom.

Q. Is there any agreement that you know of to that effect between the companies?

A. Yes sir; it is provided for in the lease.

Cross-examination by Mr. WYKES:

Q. You spoke of some agreements between the Lake Shore and these subsidiary roads?

A. Yes sir.

Q. Those agreements are in writing, are they not?

A. Yes sir.

Q. Have you them with you?

A. Yes sir.

Mr. BLAIR: We wish to have it understood that after copies have been furnished to us, printed or type written of these leases between the Lake Shore and these subsidiary lines that we may offer such portions of them as we deem to be material as a part of the cross-examination of Mr. O'Boyle and in case it should turn out that in any of these leases the covenants to pay the taxes on the

362 subsidiary lines are omitted that Mr. Angell need not upon that account file a separate bill for that particular line but that particular line may be deemed to be included under the bill of the main line of the Lake Shore.

Mr. ANGELL: That is all-right.

Q. Now you spoke generally of these roads as proprietary roads; what did you include under that term and what did you mean by it?

A. Well, from a rail road standpoint if a rail road company owns the stock of another road and operates that property they call it a proprietary road.

A. Yes sir.

Q. Of the Sturgis, Goshen and St. Louis Rail Road Company?

A. Yes sir.

Q. Of the Detroit, Toledo and Milwaukee Rail Road Company?

A. Yes sir.

Q. Does the rail road property of each of the companies named include real estate within the State of Michigan?

A. Yes sir.

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A. Yes sir.

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Q. Yes sir?

A. I remember that we got quite a batch of correspondence from them advising of the assessments that had been made.

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A. Well, it was prior to that.

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A. No, I didn't receive any.

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A. No, sir.

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A. No sir.

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361 board of tax assessors ?

A. No sir.

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A. What they have to do with it ?

Q. Yes sir ?

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362 subsidiary lines are omitted that Mr. Angell need not upon that account file a separate bill for that particular line but that particular line may be deemed to be included under the bill of the main line of the Lake Shore.

Mr. ANGELL : That is all-right.

Q. Now you spoke generally of these roads as proprietary roads ; what did you include under that term and what did you mean by it ?

A. Well, from a rail road standpoint if a rail road company owns the stock of another road and operates that property they call it a proprietary road.

Q. How many of those roads does that condition exist in regard to—it does not exist as to all of them?

A. I think in every one, in every case without an exception.

Q. Now you said notices as to tax matters pass through your hands?

A. Yes sir.

Q. Is that the invariable rule?

A. Well, it depends entirely on how they are addressed; if they are addressed to us we generally get them for us to make a record of, and even if they are addressed to some other department they would come to us.

Q. Wouldn't it be possible for your company through its attorney or through some other officer to receive one of these notices without its coming to you?

A. Yes sir it would be barely possible but if it was something as I say that in any way pertained—one department is familiar with the duties of another one and very often a letter is misaddressed and it is referred to that department without sending it back to the original sender.

Q. It is possible for a notice to be given and you not see it personally?

A. Yes sir it is possible.

Q. Do you know the date on which this million and some odd dollars took place?

A. No sir.

Q. You don't know the date?

A. No sir.

364 GODFREY JAEGER being called as a witness on behalf of the complainants and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth testified as follows:

Direct examination by Mr. ANGELL:

Q. Where do you reside?

A. I live in Cleveland, Ohio.

Q. What is your business?

A. I am the tax agent for the Lake Shore and Michigan Southern Railroad Company.

Q. What are your duties?

A. Well, everything pertaining to the taxes of all the properties of the company; I make the vouchers for all taxes and pay the most of them.

Q. Does that apply to all of the lines, the operated lines as well as to the original line?

A. Yes sir, all the properties of the company, everything they operate.

Q. Were you at Lansing on January 12th 1903?

A. Yes sir I was at Lansing January 12th.

Q. What were you doing there?

A. Well I was there with the company's counsel to make a statement to the State board of assessors.

Q. With reference to what?

A. With reference to the appraisement that had been made; we were endeavoring to show that the appraisement was too high; I understand that was our main business there.

Q. Do you remember the figure at which that appraisement stood that day?

A. Yes sir.

Q. What was it?

A. Seventeen million dollars for the aggregate for the Lake Shore and its subsidiary lines.

365 Q. Do you recall the interview that was had between you and the counsel you spoke of and the State board with any degree of clearness?

A. Pretty clearly, yes sir.

Q. About how long did the interview last?

A. Well, I should think it was one or two hours—about two hours.

Q. What if anything at that time during that interview was suggested by the State board as to an increase in the assessed valuation?

Mr. WYKES: We object to this; what was said there is shown by the type-written transcript of the proceedings.

A. There was no suggestion made; in fact we had great hopes of having a reduction, and were very much surprised when we found we didn't get it.

Q. When did you learn you did not get a reduction but got an increase of a million of dollars?

A. Well, some three or four days after our hearing before the board.

Q. Through what medium did you get that knowledge?

A. Well I think I saw it in some paper, and I am under the impression we had a telegram—I had a telegram from Mr. Hammond our attorney at Lansing that we had been raised another million.

Q. Between the time of your interview with the State board on the 12th. and the day of your receiving from Mr. Hammond or the newspapers the news you have spoken of will you state whether you had had any intimation of any kind whatever that the board proposed to increase the valuation?

A. No sir, we had none.

366 Q. Did you have any notice of any nature whatsoever from any source to come there and show cause against such an increase?

A. No sir.

Q. How long have you been in the tax department of the complainant?

A. Thirteen years, or it will be at the close of the year; I began the first of January 1891.

Q. Have you acquainted yourself with the gross earnings of the Lake Shore Company and its different subordinate companies mentioned in this bill for the year 1902?

A. Yes sir.

Q. Have you also acquainted yourself with the assessed value as finally fixed by the State board of assessors upon these various companies?

A. Yes sir.

Q. Have you made a calculation to see what per cent. of the gross earnings for the year 1902 this tax on these companies would amount to?

A. Yes sir.

Q. Will you state what it was?

MR. WYKES: We object to it as incompetent, irrelevant and immaterial.

Q. I made a computation upon the earnings of 1901.

Q. 1902 is the one that I call your attention to?

A. All right, sir. The amount of taxes assessed on what I call the main line of the Lake Shore and Michigan Southern railway amounted to 11.42 per cent. of its gross earnings in Michigan, the Detroit and Chicago 23.71 per cent.; the Detroit, Hillsdale and Southwestern 22.85 per cent.; the Detroit, Munroe and Toledo 9.66 per cent.; the Fort Wayne and Jackson 13.83 per cent.; the Kalamazoo, Allegan and Grand Rapids 10.09 per cent.; the Kalamazoo and White Pigeon 10.95 per cent.; the Sturgis Goshen 367 and St. Louis 30.72 per cent.; the Detroit, Toledo and Milwaukee 13.04 per cent.

Q. Have you computed the Northern Central Michigan, is that on your list there?

A. Yes sir I thought I gave it; 11.95.

Q. Look at your schedule opposite Kalamazoo and White Pigeon and see what the percentage is?

A. The Kalamazoo and White Pigeon is 9.74. Do you want the average?

Q. Yes sir?

A. 11.37 per cent.

Q. Of the lines in Michigan which if any in the year 1902 made any net earnings?

A. The Detroit, Monroe and Toledo made a net earning.

Q. About what per cent. of its net earnings has its taxes equalled?

A. About fifty per cent.

Q. I call your attention to the printed bill of complaint in this case which under paragraph 13 gives certain percentages similar to those you have just given?

A. Yes sir.

Q. Is that for the year 1902?

A. That should be 1901—as compared to the earnings of 1901.

Q. Did you make the computation which is contained in the bill?

A. I did.

Q. And there is a misprint in the bill, those figures refer to 1901?

A. Yes sir the earnings of 1901.

Q. Whereas the figures you have just given refer to 1902?

A. Yes sir, the calander year which is the company's fiscal year.

Q. At the time that this bill was prepared in June had you or had you not data before you sufficient to make that computation you have just given?

A. I may have made the computation before that time; at 368 that time I didn't have the earnings for 1902.

Q. In preparing the bill the solicitor should have stated 1901 instead of 1902?

A. Yes sir.

Q. The figures you have just given are now checked from the accurate figures for 1902?

A. Yes sir.

Q. With reference to notices about tax matters that come to the Lake Shore and Michigan Southern Railway Company; will you state whether or not such noticed to whomsoever originally addressed come to your hands ultimately?

A. Yes sir, they invariably do. Sometimes they are addressed to the auditor's office, and sometimes to the general manager and frequently to the engineer's office but they are always sent to my office.

Cross-examination by Mr. WYKES:

Q. Now you appeared before this board on the 12th of January?

A. Yes sir.

Q. Do you know whether the board continued in session up to the 16th of the month?

A. I don't know but I was told that at the time when we got the information of the increase that the books were closed.

Q. That was on the 15th or after though?

A. Yes sir; within three or four days of the day I was at Lansing.

Q. The board did continue in session for a number of days after you were there?

A. Several days I understood.

369 Q. Now, do you know the method by which the earnings of your roads are distributed among the several branches?

A. No, I do not.

Q. Did you personally compute those percentages?

A. Yes sir.

Q. Could you compute those percentages without knowing?

A. I got the information from our auditor's office of the earnings, and then it was a very simple matter to compute the percentage or ratio that the tax bore to the earnings.

Q. You know nothing whatever of the method of division?

A. No, I don't know how the auditor's office divides the earnings; they furnish me with a statement which of course is necessary; I have always computed the taxes under the old law on the earnings.

Q. Now, have you with you a statement of the earnings?

A. Yes sir.

(Witness presents paper to counsel.)

Q. Then you don't know that this is a true apportionment or that there is a true apportionment of the gross earnings in Michigan?

A. I know nothing about it only what the auditor's office furnishes me.

Q. Then you don't know except as your computation is based on the computation of somebody else or upon the arbitrary division of somebody else, you do not know that these percentages are the proper percentages?

A. I don't of my own knowledge, I didn't make them.

Q. That is you didn't make the percentages?

A. Yes sir I made the percentages, but I mean the division of earnings.

Q. Do you know what the total earnings for Michigan on 370 any of these branches is?

A. No sir, I presume they are correct, but so far as the average percentage is concerned it would not make any difference how you divided it up, you get the total of the company's earnings in Michigan and the total tax and we get the average rate.

Q. How do you get your total for Michigan of earnings?

A. Well, I get that from the auditor's office.

Q. You don't know anything about it?

A. I don't.

Q. So you don't know whether this computation is the correct computation?

A. I do not. I can say this much, that these figures are made by the auditor's office without regard to tax matters, it is among the records of the office of earnings and they are not gotten up for tax purposes.

Q. But they are gotten up for the purpose of making a report to the State of Michigan?

A. I suppose so. Not only that but the company naturally want a correct account of its earnings in all the States.

Q. Are those the figures appearing in the official reports to the State of Michigan?

A. I haven't compared them myself.

Q. Don't they report the same figures to the Michigan officers that they have on their books?

A. Well, as I understand that we were expected to get the earn-

ings up to a certain date in April but permission was given to give the earnings up to the 30th of June; now, they would naturally vary somewhat of course for the year ending the 30th of June and those earnings for the calendar year up to the 31st of December.

371 Q. Those earnings are taken for a different period?

A. They are taken for the calendar year which is also the company's fiscal year.

Q. Taking the business for two years that will show, the average ought to be the same as given in the reports made to the public officials and on your books there?

A. In the long run it would be the same of course.

Q. Well, is it the same?

A. Well, I presume it would be; there certainly would be a difference for the year beginning and ending the 30th of June as compared with the calendar year.

Q. Now can you tell me who makes the division of these earnings?

A. Well, there is the auditor of passenger receipts and the auditor of freight receipts they are two different departments, they are portions of the auditor's department; I pay no attention to those matters?

Q. Who is the auditor of freight receipts?

A. Mr. Tully.

Q. Of where?

A. Cleveland.

Q. And who is the auditor of passenger receipts?

A. Mr. F. A. Wyman.

Q. They would know the full circumstances in regard to the division of those earnings?

A. I should say so.

Q. Do you know whether they are directed by any official to make the division in any particular way?

A. I don't know.

Q. What books would those appear from?

A. I don't know anything about it.

Q. You have some judgment on the question?

372 Mr. ANGELL: I object to that question.

A. I haven't any any way.

Q. You don't know anything about it?

A. I don't.

Redirect examination by Mr. ANGELL:

Q. You get the figures of the gross earnings from the auditor's department?

A. Yes sir.

Q. And you get your figures of the taxes assessed from the State board?

A. Yes sir.

Q. And you make the computation yourself?

A. Of the percentages, yes sir.

Q. Which you have testified to?

A. Yes sir.

Mr. ANGELL: That is all.

Mr. WYKES: That is all.

Mr. BLAIR: I move that the testimony of the last witness be stricken from the record as not based upon any foundation of fact so far as his computation is concerned.

373 F. O. GULLIFER being recalled as a witness on behalf of the complainant testified as follows:

Direct examination by Mr. ANGELL:

Q. Now, between the 12th and the 16th of January last do you know whether the State board of tax assessors sent out any notices to the Lake Shore Company or to any of its subordinate companies as to this proposed increase in the assessment as originally made?

A. I don't recollect whether they did or not; I can't tell.

Q. You cannot tell at the present time?

A. No sir.

Cross-examination by Mr. WYKES:

Q. Now do you know the date on which the Lake Shore representatives appeared before the board?

A. I could not tell here.

Q. If it was the 12th of January the board continued in session for a number of days after that, didn't it?

A. Well, I think the board was in session until the 15th.

Q. The board was in session to and including the 15th.

A. I think it was.

Q. And during that time the representatives of the different roads appeared before it?

A. Yes sir.

Q. And they were holding hearings during this time?

A. I think they were.

Q. Now, do you know when the increase in the Lake Shore assessment occurred?

A. No sir.

374 Redirect examination by Mr. ANGELL:

Q. You know it occurred before the roll was finally made up?

A. I think there is no doubt about that.

It is agreed between counsel that the bill of complaint of the Lake Shore and Michigan Southern Railway Company may be considered amended by inserting at the end of paragraph 13 instead of the figures which there appear the figures of the percentages testified by the witness Jaeger.

J. N. O'BOYLE recalled as a witness on behalf of the complainants testified as follows:

The WITNESS: I wish to correct my testimony as to the lines in Michigan, the so-called proprietary lines; there are three of those that are leased lines in which the Lake Shore does not own a majority of stock, namely, the Fort Wayne & Jackson, the Detroit, Hillsdale and Southwestern, and the Kalamazoo, Allegan & Grand Rapids.

Cross-examination by Mr. WYKES:

Q. There is an agreement with each of these roads whether they are proprietary or leased roads?

A. Yes sir.

375 ARTHUR E. DELF being called as a witness on behalf of the complainants and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth testified as follows:

Direct examination by Mr. ANGELL:

Q. Where do you reside?

A. Marquette, Michigan.

Q. And what is your business?

A. Auditor of the Duluth, South Shore and Atlantic road.

Q. And how long have you held that office?

A. Since 1894.

Q. Were you at Lansing during the month of January 1903?

A. I was.

Q. Were you there more than once that month?

A. I think not.

Q. What day if you recollect were you there?

A. I was there the 6th and 7th.

Q. For what purpose were you there?

A. Well! I was there with Mr. Eldridge our general counsel to meet the State board of assessors with a view of getting the assessment of the roads represented by us reduced.

Q. You mean January 1903 of course?

A. Yes sir.

Q. You and Mr. Eldridge appeared before the board to make a showing for what purpose?

A. To obtain a reduction in the assessment of the Duluth, South Shore and Atlantic railway.

Q. At that time had an approximate value, or a tentative value been placed by the board on the property of your road?

A. There had.

Q. What was that value as you recollect it?

376 A. \$11,250,000.00.

Q. During the interview you had with the members of the

board what if anything was said by them as to a purpose to increase that figure to a larger figure?

Mr. WYKES: I object to that; it is shown by the records of the hearing.

A. There was nothing said.

Q. In fact the valuation was increased at a later date?

A. Yes sir.

Q. When did you first learn that a larger valuation, to-wit the one finally fixed, had been placed upon your property—upon your road's property?

A. I think it was about January 21st or 22d. 1903.

Q. Do you recall from what source you received that information?

A. From the daily papers.

Q. Between the date you were there on the 6th and 7th of January and the 16th of January state whether your road received any notice from the board of State assessors of any intention on its part to increase the valuation or gave notice to appear and show cause why such increase should not be made?

Mr. WYKES: We object to this; no knowledge on the part of the witness to make this statement is shown.

A. It didn't.

Q. Who has charge of the tax matters for your road?

A. I have.

Q. You yourself have?

A. Yes sir.

Q. As regards the assessment that was made, the reports, notices etc. during January of this year and the months immediately
377 prior you represented your road and had charge immediately of all such matters?

A. Yes sir.

Q. Such notices as were received prior to the 6th and 7th of January reached you, did they?

A. They did.

Q. And it is in the light of those facts that you made the statement in response to my question a moment ago?

A. Yes sir.

Q. Did you as a matter of fact in any way whatever know until you saw it in the newspapers that the board proposed to increase or had increased your assessment?

A. No sir.

Q. Is there anything else in that connection which you desire to state as to which I have not interrogated you, if so state it?

A. I know of nothing.

Q. I call your attention to an allegation contained in the bill filed by the Sault St. Marie Bridge Company against Perry F. Powers as to the ownership by the complainant in that case of engines and

rolling stock. What is the fact as to whether the Sault St. Marie Bridge Company owns any engines or cars of any kind?

A. It does not.

Q. What is the fact as to whether it operates any cars over the bridge which it owns?

A. It does not.

Mr. WYKES: We object to all this line of testimony as immaterial.

Q. How are the cars and engines operated over the bridge of the Sault St. Marie Bridge Company?

A. They are operated jointly by the three companies using the bridge, the Canadian Pacific, the Minneapolis, St. Paul and Sault St. Marie and the Duluth, South Shore and Atlantic.

Q. What sort of a company is this complainant, a rail road company or what?

A. It is a bridge company owning an international bridge between Canada and the United States.

Q. At or near Sault St. Marie?

A. Yes sir.

Cross-examination by Mr. WYKES:

Q. You were before the State board on the 6th and 7th of January 1903?

A. It was one of those days; we were there both days, I have forgotten which day we appeared before the board.

Q. Did you appear after that?

A. No sir.

Q. But under the law the board continues in session up to the 15th?

A. I believe so.

Q. And continues during that time to revise assessments? That is true, isn't it?

A. As I understand it, yes sir.

Q. Now you have said that you received notices generally. Would it be possible for your company to receive a notice that their taxes were increased, or would it have been possible between the 6th and the 15th of January without your having known anything about it until after the 16th?

A. A notice might have been addressed to some other official and received by him but it would have been turned over to me.

Q. It would have been possible for that to have occurred?

A. It would.

Q. Now as to the Sault St. Marie Bridge Company; what law is this company organized under?

A. I think the State of New Jersey.

Q. It is organized as a rail road corporation under the rail road laws of the State of Michigan, isn't it?

379 A. I am not sure about it, I really don't know.

Q. Now how long is it that you have been connected with the tax department of this road?

A. I have always compiled the figures in the books since 1894.

Q. Have you had anything to do with the tax department of the Sault St. Marie Bridge Company?

A. No sir.

Q. Do you know anything about where and how they pay their taxes?

A. No sir.

Q. Don't you know it to be a fact that they pay their taxes in the State of Michigan under the rail road law? Isn't that a fact?

A. I believe it is but I am not very certain.

Q. And isn't it a fact that they have done that for ten years past?

A. Well, my only knowledge upon that point is from the commissioner's reports.

Q. Now this bridge was build under an agreement between the Canadian Pacific, the Duluth, South Shore and Atlantic and the Soo line, wasn't it?

A. Yes sir.

Q. And it was built for the purpose of their carrying on their rail road business between Canada and the United States?

A. It was built in connection with and between the two roads.

Q. And the business passing over the bridge is rail road business, isn't it?

A. It is.

Q. Do you know the nature of the arrangement under which the bridge was originally constructed?

A. I don't recall the nature of the original arrangement; I know the present arrangement of operation.

380 Q. Give us the details of the present arrangement?

(By Mr. ANGELL:)

Q. Is that arrangement in writing?

A. I think it is.

Mr. ANGELL: I object to the question as not the best evidence.

Mr. WYKES: We will give you notice to produce that writing so that we can put it in evidence.

By Mr. WYKES, resuming:

Q. Who has it in possession at this time?

A. I have a copy; I think I have one of the original copies.

Q. Have you one with you?

A. No sir, it is at Marquette.

Q. Then the Sault St. Marie Bridge Company is made up on these rail road corporations, is it not?

A. They own the stock of the association.

Q. They own the entire stock?

A. Yes sir.

Q. And its entire business is in carrying on the rail road business of those corporations?

A. Yes sir.

Q. And the Sault St. Marie Bridge Company was organized under the general rail road law of the State of Michigan for the purpose of building a bridge for the sole purpose of carrying on the rail road business of these rail road companies?

A. I can not say as to that.

Q. It is organized—we will leave out the fact that it is organized under the general rail road law—it is organized by these Michigan rail road companies for the purpose of carrying on their rail road business?

A. For the purpose of making connection with the Canadian Pacific.

Q. It is an incident of the rail road business?

A. Yes sir.

381 Q. Now, has the corporation which built the bridge any other purpose for existence than simply its connection with these rail road companies?

A. I think not.

Q. Now, isn't it a fact that the rental is a nominal sum simply for the purpose of dividing the cost of maintaining the bridge among these companies?

Mr. ANGELL: I don't see how this is relevant so that I will save the point that it is immaterial and irrelevant.

A. The three companies contribute to the fund for the payment of interest, taxes and sinking fund and to pay off the bonds.

Q. The rest of the proceeds of the road goes into the business of the rail road companies—it goes into their gross earnings?

A. It is deducted from the cost of operating.

Q. Then it is true that these roads simply pay a nominal sum for the business they do over the bridge?

A. Well, the amount of taxes, interest on the bonds and sinking fund.

Q. Simply what is necessary to keep the bridge in existence?

A. Yes sir.

Q. Do you know whether this bridge company makes reports to the commissioner of rail roads of the State of Michigan?

A. Only through seeing it printed in the report.

Q. You have seen it in the reports?

A. Yes sir.

Q. Then you do know from that that they do make reports?

A. Yes sir.

Q. I hand you the printed report of the commissioner of rail roads for the year 1901 and call your attention to the table found on pages 216 and 217 which is a table indicating the taxes paid by the sev-

382 eral rail road companies organized under the general law from the year 1894 to 1900 inclusive and I ask you to tell me if the Sault St. Marie Bridge Company does not appear in that table?

A. It does.

Mr. ANGELL: I object to that as immaterial.

Q. I ask you further, doesn't it appear in each of those columns that they paid taxes during the several years from 1894 to 1900 inclusive?

Mr. ANGELL: I make the same objection.

A. It does.

Q. I ask you to read the amounts and state the year in each instance?

A. In the year 1894 \$667.32.

In the year 1895 \$674.19.

In the year 1896 \$710.68.

In the year 1897 \$821.37.

In the year 1898 \$911.50.

In the year 1899 \$909.68.

In the year 1900 \$990.78.

Mr. ANGELL: I make the same objection as before.

Q. I give you the same report of the commissioner of rail roads for 1901 and ask you if it contains the report of the Sault St. Marie Bridge Company for the year 1900?

(Counsel presents book to witness.)

A. It does.

Q. Will you tell me as indicated by that report when the road was organized, that is when the bridge company was organized under the general rail road law?

A. It was chartered March 16th, 1887.

Q. When was the bridge company actually formed?

A. That I don't recollect.

383 Q. Do you know when the bridge was built?

A. No I don't; somewhere about that date though.

Q. Your line extends through the State of Michigan from what point on the east?

A. Sault St. Marie.

Q. And to what point on the west?

A. West Superior Wisconsin.

Q. You run sleeping cars of your own, do you?

A. We do.

Q. How many have you?

A. Five.

Q. Those are the only sleeping cars that run over your line?

A. There is one sleeper running now from Detroit through to

Sault St. Marie in connection with the Michigan Central that is a Pullman sleeper.

Q. These are the only sleepers owned by yourself or any other company other than the Pullman Company?

A. No sir. The Chicago, Milwaukee and St. Paul runs a sleeper up into the copper country, up into Calumet.

Q. Over your line?

A. Yes sir. I should say to Houghton instead of to Calumet.

Q. That makes six sleeping cars that are owned by the rail road companies to operate over your line?

A. Well it makes more sleeping cars than that; they are run on one train each way every day; there are more sleepers in the service than six.

Q. Do you mean you own more than five?

A. We only own five sleepers.

Q. How many do you say the Minneapolis road runs over your line?

A. None.

Q. What was the road?

A. The Chicago, Milwaukee and St. Paul.

384 Q. How many do you say they run over your line?

A. One in each direction each day to Houghton from Champion to Houghton and return.

Q. There are seven sleepers that run over your line?

A. Yes sir. There might be more than that in the service.

Q. I mean outside of the Pullman sleepers?

A. I could not enumerate the sleepers, they might change off every day for all I know.

Q. There are only seven engaged in running over your line—I don't mean to identify the particular sleeper?

A. Yes sir. There is one runs on the Chicago and Northwestern train up into the copper country that would make eight, that is a Pullman sleeper.

Q. What is the value of your sleeping cars, the five that belong to your company?

Mr. ANGELL: I object to that as irrelevant.

A. I think they cost about \$75,000.00.

Q. For the five?

A. Yes sir.

Q. Do you know anything about the value of the sleepers belonging to the other rail road companies?

A. I do not.

Q. Are the sleepers that are owned and operated by your company operated entirely within the State of Michigan?

A. No sir, they run through to Duluth.

Q. Do they cross the Sault St. Marie river on the east?

A. No sir they do not.

Q. About what proportion of their time are they in Michigan.

Mr. ANGELL: I object to that as immaterial.

385 A. About seventy five per cent. That is the running time.
Q. Where are they when they are not running?

A. They lay off at Duluth all day; one is there all day and another at the Soo all day.

Q. Do you mean to say there are four in Duluth all day and one at the Soo?

A. No sir, they run around to various places and it is pretty hard to locate them.

Q. You said they kept them at Duluth during the day?

A. One—there are two in at Duluth all day and one at Calumet and one at Sault St. Marie and perhaps two, I could not just distribute them.

Q. The sleepers owned by other rail road companies, for instance those run by the Chicago, Milwaukee and St. Paul, what proportion of their time are they in the State?

A. I could not tell you that because they are in the State a part of the time while they are on the Chicago Milwaukee & St. Paul road before they reach our line.

Q. Can you approximate it for me?

A. I can give the time when they leave Chicago and the time when they reach Calumet and the time they leave Calumet and when they reach Chicago again.

Q. Just do that please?

A. It is a matter of mileage computation probably. The Chicago Milwaukee and St. Paul sleeper leaves Chicago at 10.40 at night and reaches Houghton about 11.30 in the morning; it leaves Houghton about four o'clock in the afternoon and reaches Chicago about 7.30 the next morning.

Q. Now the sleepers which your company operates are operated incidentally to your rail road business?

A. Yes sir.

Q. You are not engaged in the sleeping car business generally?

A. Not other than that.

386 Q. As an incident to your railroad business merely?

A. Yes sir.

Q. When were these sleepers acquired?

A. We commenced running them in June 1902.

Q. In June 1902?

A. Yes sir.

Q. Then you bought them since 1900 some time?

A. Yes sir.

Q. Can you give the precise date?

A. When we purchased them?

Q. Yes sir.

A. No sir, I cannot; we received them just shortly before we commenced running them; we commenced running them as soon as we received them.

Q. You received them just shortly before you commenced running them in June 1902?

A. Yes sir.

Q. Now the Canadian Pacific Railway Company, does it run any sleepers of its own in the Upper peninsula?

A. Not over our line.

Q. In the Upper peninsula over any other lines?

A. I believe they run some sleepers over the Soo line.

Q. Do you know how many?

A. I do not.

Q. Could you tell by a reference to the time table of the Canadian Pacific road?

A. No sir, I could not.

Q. Does it indicate the sleepers?

(Counsel hands railway folder to witness.)

A. It would not indicate the ownership of the sleepers; the Soo system runs its sleepers in the same train.

Q. What do you mean by its sleepers—the Pullman sleepers?

A. No sir, the Soo line, they own their own sleepers also.

Q. Do you mean to say that neither of these roads operate any Pullman sleepers?

387 A. No sir, none of them.

Q. You can give from a reference to the time table the sleepers belonging to both of those companies?

A. No I don't believe the time tables will indicate it.

Q. Do you know what sleepers are operated by the Canadian Pacific in the Southern peninsula over the Wabash?

A. No sir.

Q. You don't know that they operate any?

A. No sir.

Q. The sleepers operated by the St. Paul road in Michigan not belonging to the Pullman Company are limited to two?

A. Are you speaking of the South Shore line now?

Q. I am speaking of the entire business in the State of Michigan?

A. I don't know of any sleepers they operate other than on our own line; I have no knowledge what sleepers they operate other than on the South Shore line.

Q. What is the ordinary cost of a sleeper?

Mr. ANGELL: I object to it as irrelevant.

A. I can only speak from those I have already told you about; our sleepers cost us in the neighborhood of fifteen thousand dollars each.

Q. You operate fully as good a sleeper as the other railroad companies that own their own?

A. I presume so.

Q. And they cost in the neighborhood of fifteen thousand dollars apiece?

A. Yes sir.

Q. Have you acquired any other equipment in the passenger department since 1900?

Mr. ANGELL: I object to that as irrelevant.

A. Yes sir some passenger coaches and some combination baggage and smoking cars.

388 Q. How many of the passenger coaches have you acquired?

Mr. ANGELL: The same objection.

A. Four.

Q. When did you get them?

A. In 1902, I don't remember just the exact date.

Q. Some time before the middle of the year?

A. Yes, sir.

Q. And about what are those worth?

A. Well, I think they cost us between six and seven thousand dollars each.

Q. And you say you acquired how many?

A. Four.

Q. And the combination baggage and passenger cars, how many of those did you acquire?

A. I think there were two of those.

Q. What were those worth?

A. Between five thousand and fifty-five hundred dollars.

Q. Now your locomotives: Have you acquired any new locomotives?

A. No, sir.

Q. Have you added to the equipment in your freight department?

A. No, sir.

Q. Nothing whatever?

A. No, sir.

Q. Have you built any new track since 1900?

Mr. ANGELL: I make the same objection to this, that it is improper cross examination.

A. Very little. Just incident to the sidings that we have built, no new main line.

Q. And you have put in sidings?

A. Yes, sir.

Q. And you have straightened some track?

A. I don't recall that we have straightened any track.

389 Q. Have you double tracked any?

A. No, sir.

Q. Where have you put in your new sidings?

A. I cannot recount them; we have put in sidings at one place and taken them out at another. I think our line as a whole has been reduced rather than increased, the mileage has been reduced rather than increased.

Q. Have you built any new bridges during the course of the year?

A. No, sir.

Q. Any new culverts?

A. Not that I recall.

Q. Have you replaced any old bridges?

A. Mr. ANGELL: I desire to put in an objection to any of this class of testimony in relation to the alterations in the status of the property of this road as immaterial, irrelevant and improper cross examination in the Federal court.

Q. Have you replaced any old bridges?

A. Since what date?

Q. Since October 1900.

A. I think perhaps we have rebuilt some bridges.

Q. Where?

A. I don't know that we have entirely reconstructed them.

Q. Where?

A. That I couldn't say.

Q. The rebuilding added to the value of your railroad?

A. Well, it renewed the bridges.

Q. Do you know what the cost of that was?

A. It is not very extensive, perhaps six or seven thousand dollars.

Q. Now in the auditing department you know the cost of these things and you know what is done in this way of improvement.

Are there any other improvements in your road which have added to its value since October 1900?

A. Not to any great extent that I can recall.

Q. Are there any—you say not to any great extent—what changes have you made since 1900?

A. Well we might have built some bridges instead of replacing them.

Q. Where was that?

A. Well, at various points. The bridges go by numbers.

Q. Isn't there one of those where you had to move a number of hundred millions of cubic feet of earth to fill it?

A. No, sir, I think not.

Q. A number of hundred thousand, I will say, that cost a great deal of money.

A. I can give you the particulars of those from my records at home; I cannot from memory.

Q. Where was it they made this large fill?

A. I don't know what fill you refer to.

Q. Well, any large fill that they have made.

Q. We haven't made any very large fills at all.

Q. Any that you have made, just state them?

A. There is one bridge that was filled at Anna river, or one trestle rather.

Q. How much earth was moved there?

A. I can't tell, you.

Q. What was the cost of it?

A. That I could not tell you.

Q. That is indicated by your books?

A. It is.

Q. You could furnish a statement of that from your books?

A. I can give you a statement of that, yes, sir.

391 Q. And will you furnish it?

A. I will. You want the statement of the bridges that have been filled?

Q. And the bridges that have been built and the betterments of the road.

Mr. BUTTERFIELD: I object to that. I will state to the witness that I do not think he is under any obligation to furnish any such statement unless he wishes to do so, and I object to the statement being furnished as immaterial and irrelevant to the issue.

Q. You are familiar with time tables generally?

A. Somewhat.

Q. Here is a time table of the Canadian Pacific railroad, and I ask you what is stated by that table on the page shown you, give us a statement of what it is.

Mr. BUTTERFIELD: That is objected to as immaterial.

A. It is a statement of the running time of trains between Halifax and other points on the east end and Minneapolis on the west end.

Q. In which direction?

A. Both directions, east and west.

Q. Will you give me the year of that time table, the date of it?

A. October 11, 1903.

Q. Now notice the foot note at the bottom of the page. Does not that indicate the sleepers run over the lines indicated there.

A. It doesn't indicate what sleepers; it indicates that there are sleepers.

Q. Will you give the numbers indicated by that, the number of sleepers which run through Michigan over these lines?

392 Mr. BUTTERFIELD: I object to it as irrelevant, immaterial and incompetent.

A. I couldn't do it; it doesn't indicate it.

Q. Read the note please?

A. No. 1, Pacific express leaving Montreal daily, has colonists' and first class coaches and sleeping car to Vancouver; sleeping car from Toronto and Winnipeg via North Bay and from St. Paul to Seattle via Soo Pacific route. Tourists' cars for Vancouver leave Boston Wednesday, Montreal Thursday, Toronto Tuesday and Saturday,

Winnipeg Thursday and Saturday and Monday, and daily from St. Paul and Seattle via Moose Jaw.

Another note: No. 7, St. Paul express, leaving Montreal daily, has sleeping car from Boston with solid train from Montreal to St. Paul and Minneapolis via Soo line, connects at Sault Ste. Marie with express for Duluth, sleeping car with buffet dining car serving breakfast daily from Sault Ste. Marie to Duluth. Buffet car Boston to Montreal; dining car from Matewa to Minneapolis and St. Paul.

Q. Now let me ask you if there are trains indicated there that do not run through the State of Michigan.

A. Yes, sir.

Q. State the numbers?

A. Train No. 1.

Q. What is the route of that please?

A. From Montreal to Vancouver via Sudberry and the Canadian Pacific railway running north of Lake Superior; that is entirely through Canadian territory.

Q. Are there any others?

A. Train No. 79 running from Prescott to Pembroke. There is only one train running through the State of Michigan.

393 Q. Each way?

A. Each way.

Q. That is the only train indicated there as carrying sleepers?

A. Well, No. 1 and 7 are both indicated as carrying sleepers.

Q. Those are the only two that run through the State of Michigan.

A. No, sir. No. 1 does not run through the State of Michigan. No. 7 west bound and No. 8 east bound are the only two that run through the State of Michigan.

Q. No. 7 is the only one that carries sleepers?

A. 7 and 8.

Q. Read the note as to 7 and 8.

A. I have already read No. 7; I will read No. 8. No. 8, solid train from Minneapolis and St. Paul to Montreal with sleeping car to Boston. Sleeping car with buffet dining car serving breakfast daily from Duluth to Sault Ste. Marie, there connecting with express from St. Paul for Montreal. Dining car from St. Paul and Minneapolis to Matewa, buffet car Montreal to Boston. Passengers arriving at Montreal Sunday a. m. take 7:45 p. m. train for Boston.

Q. Now what is the running time through the State of Michigan as indicated by that time table?

A. Do you want it in both directions?

Q. In either direction.

Mr. ANGELL: I object to that as irrelevant and as no evidence of the fact.

Q. You know what time is taken to run through the State of Michigan over the Soo line?

A. I cannot tell; there is nothing to indicate it here.

Q. You can approximate it?

394 A. Well, perhaps I can from another part of the card. I know very little of the running of the Soo line; I have never been over it in the day time and I can't tell you.

Q. It would not take over six hours, would it, to go through the State of Michigan on the Soo line.

A. I think it would.

Q. It would not take to exceed eight on the outside.

A. I don't know.

Q. Now the parlor cars that you operate are Pullman cars, are they not?

A. No, sir.

Q. What are they then?

A. We do not operate any parlor cars.

Redirect examination by Mr. ANGELL:

Q. Have you put out of use the old chair cars which you used to own and operate?

A. No, sir.

Q. Are they still used?

A. They are still used; the only ones we have.

Q. How many of those are there?

A. Three.

Q. But you don't run any Pullman through cars over your system at all.

A. We do not.

Q. How is it about dining cars? Do you operate your own

A. Yes, sir.

Q. So far as you know the Pullmans which are run in the Upper peninsula are those which you have told us about, one running each way by the Michigan Central connection to the Soo and such as run over the Chicago & Northwestern.

A. That is all that operate over the Duluth South Shore & Atlantic road.

395 Q. So far as you know are there any others operated in the Upper peninsula except on those roads.

A. No, sir.

Q. The only sleepers you are acquainted with are the sleepers owned by the railroad companies.

A. Yes, sir.

Q. Have you any knowledge of your own whether these statements that you have been reading from on that yellow time card are correct?

A. I have not.

Q. You know nothing about it.

A. I know nothing about it.

Q. You were asked whether it was possible that a notice from the State board of assessors could have reached your road and not reached your hands. Do you recall that question?

A. I do.

Q. Let me ask you whether at any time when you did learn of the increase in the assessment any such notice ever reached you from any department of the road?

A. It did not.

Recross-examination by Mr. WYKES:

Q. Now the chair cars that you speak of, they are merely your regular passenger cars.

A. I didn't speak of any chair cars.

Q. Mr. Angell asked you that question. You haven't any chair cars, do you say?

A. We have none that I would designate as chair cars.

Q. What are the three cars.

A. We have three cars that are made up of old coaches and
396 have a central portion for a dining car, serving meals, and the rear portion has eight seats in I think for passengers, and the forward portion for smoking.

Q. You make an extra charge for riding in those cars?

A. Yes, sir; we make an extra charge, and we call them observation cars.

Q. You say they are made up of old coaches. What are they worth?

Mr. ANGELL: I object to that as immaterial.

A. I could not say what they are worth.

Q. Weren't they put in their present condition since 1900?

A. No, sir; they were running prior to that.

Q. When you speak of your chair cars, all these cars are the dining cars you operate?

A. Three of them. We have one dining car entirely, it has no seats in it, no observation seats.

Q. How long have you owned that car?

A. That is one of our old coaches that we have rebuilt.

Q. These coaches are not worth very much in fact.

A. No, sir; they are not.

Q. They are not worth as much as one of your sleepers?

A. No, sir.

Q. Nor as much as one of your ordinary passenger cars.

A. No, sir.

Q. Now you say you have some Pullman cars operating over your line. Do you know what the nature of the arrangement of your company is with the Pullman Company.

A. We have none.

Mr. ANGELL: I object to it as irrelevant.

397 Q. You have no arrangement?

A. No, sir.

Q. There must be an arrangement of some character through which they run the car, isn't there?

A. Well, the roads that operate those sleepers, in one case the Chicago & Northwestern, has an arrangement with the Pullman Company, whatever it may be.

Q. And you have an arrangement with the other company.

A. We haul their car over our road.

Q. What are the terms or what is the understanding between your company and the Michigan Central for their car that you haul—

Mr. ANGELL: I object to it as irrelevant.

Q. (Continuing :) —for the Pullman car you haul for them.

A. As I recollect it we pay for a portion of the supplies furnished the car, and that is all.

Q. That is in the nature of a rental.

A. No, sir, it is not in the nature of a rental. The Michigan Central Company I believe pays the entire rental to the Pullman Company, and we bear no portion of it.

Q. Do you pay on a track mileage basis?

A. Do you mean the expense?

Q. Yes, sir.

A. Yes, sir, the expenses are borne on a track mileage basis.

Q. With the Chicago, Milwaukee & St. Paul, what is the nature of the arrangement you have there?

Mr. ANGELL: We make the same objection to that.

A. We haul a solid Chicago, Milwaukee & St. Paul train consisting of day coaches and a sleeper from Champion to Houghton
398 and return each day.

Mr. ANGELL: I desire to add to my objection as immaterial that this is improper cross examination.

Q. How do you divide the profits upon that haul as between your company and the Chicago Milwaukee & St. Paul?

Mr. ANGELL: The same objection as before.

A. We get nothing from the sleepers. The Chicago, Milwaukee & St. Paul gets all the revenue.

Q. You get nothing but the transportation fare out of the haul?

A. That is all.

Q. And the arrangement generally of the railroad companies with the Pullman Company is that the cars are run over the railroad companies' tracks under some sort of an agreement by which the railroad company either pays a track mileage, or the Pullman Company makes a payment; isn't that so?

A. That is usually the case.

Mr. ANGELL: I object to that.

Q. The Pullman Company doesn't own any roadbed in this State?

A. I don't know of any.

Q. Or any right of way?

A. Not that I know of.

Q. Or any stations?

A. No, sir.

Q. It doesn't furnish any motive power?

A. Not that I know of.

Q. And its business is limited to furnishing these cars?

A. I believe so.

Q. That are hauled by another company?

A. Yes, sir.

Q. It doesn't collect any transportation fares?

A. Not that I am aware of.

399 Q. It doesn't own any real estate that is used in carrying on its business.

A. I know nothing about it.

Q. The property used in carrying on this business, so far as you know, is personal property, isn't it?

A. So far as I know, yes, sir.

Q. Wouldn't you know if they had real estate that was used in carrying on their business?

A. No, sir.

Q. In this State?

A. No, sir, I wouldn't. The Pullman Company do you mean?

Q. Yes, sir?

A. No, sir, I would not.

Q. They don't own any of the right of way you have said that they run over?

A. I have not said that.

Q. What connection would they have with any other real estate?

Mr. ANGELL: I object to the question as argumentative and improper cross examination.

A. They might own real estate and I wouldn't be aware of it.

Q. Now the Pullman Company depends upon the railroad companies for its existence, doesn't it?

Mr. ANGELL: I object to the question as calling for a conclusion of fact.

A. I don't know anything about the Pullman Company's affairs.

Q. Suppose the railroad companies were out of business today, what would become of the Pullman Company? Would they haul any cars tomorrow?

A. I don't know; I don't know what arrangement they might make.

400 Q. Doesn't the continuance of the business of the Pullman Company depend upon the continuance of the business of the railroad companies?

A. Well, I have very little knowledge of the Pullmans Company's affairs except as they have been connected with our line.

Q. Does the continuance of the business of the railroad company depend on the continuance of the business of the Pullman Company?

A. Speaking for the Duluth, South Shore & Atlantic it does not.

Q. Doesn't the same condition exist in regard to the other railroads?

A. That would be my opinion.

Redirect examination by Mr. ANGELL:

Q. You are familiar are you not with the ordinary café parlor cars run on the various lines in this country.

A. Some.

Q. With a cooking pen in one end and a place to eat and most of the car taken up with swinging stuffed seats?

A. Yes, sir.

Q. Now what you call an observation car on your road is of the same general type as the ordinary café parlor car except that the place where the people sit takes up a less proportion of the total car than is usual?

A. Yes, sir.

Q. And you have at one end a separate and rather large compartment for smokers?

A. Yes, sir.

401 Q. The café and dining tables are in the center of the car instead of at one end.

A. Yes, sir.

Q. And the seats where people sit are revolving arm chairs?

A. There are six revolving chairs and a sofa in each car.

Q. The general type of the car then is exactly like what we speak of as a chair car, isn't it, only not quite so elegant as some.

A. I should designate chair cars such as are entirely of chairs.

Q. We will say the café parlor car, it is the same type?

A. Yes, sir.

Recross-examination by Mr. WYKES:

Q. You operate these diners as incidental to your business?

A. Yes, sir.

Q. You are not in the dining car business?

A. We are not; we don't make a business of it.

Q. Except as incidental to the railroad business?

A. Yes, sir.

Redirect examination by Mr. ANGELL:

Q. Your dining car business is not any different than the dining car business of any railroad?

A. Not at all. It is to furnish meals to the general public.

Q. You do not keep a hotel, but you furnish meals to passengers
A. To passengers, yes, sir.

(Hearing here adjourned until 2 o'clock.)

402

Afternoon's Proceedings.

F. O. WALDO, being called as a witness on behalf of the complainants, and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth, testified as follows :

Direct examination by Mr. BUTTERFIELD :

Q. You reside in the city of Detroit ?

A. I do.

Q. And what position do you hold in the Michigan Central Railroad Company ?

A. Assistant auditor.

Q. As assistant auditor do you have knowledge of the relations between the Michigan Central Railroad Company and certain subsidiary companies mentioned in the bill of complaint in this case ?

A. I do.

Q. I will ask you to state whether or not the Michigan Central has contract relations with the following roads, as I shall name them, under which contracts the Michigan Central Company is obligated to pay the taxes of those respective companies as follows :

The Battle Creek & Sturgis Railroad Co.,

The Bay City & Battle Creek Railroad Company,

The Canadian Southern Bridge Company,

The Detroit & Bay City Railroad Company,

The Grand River Valley Railroad Company,

The Jackson, Lansing & Saginaw Railroad Company,

The Kalamazoo & South Haven Railroad Company,

The Michigan Air Line Railroad Company,

403 The Michigan, Midland & Canada Railroad Company.

The Toledo, Canada Southern & Detroit Railroad Company.

A. They have with those you have named.

Q. What are the relations between the Michigan Central and the Buchanan & St. Joseph River Railroad Company, and the Detroit, Delray & Dearborn Railroad Company, respectively ?

A. The Michigan Central is the owner of the entire stock of those companies. We have no separate agreement.

Q. As the owner of the entire capital stock does the Michigan Central operate the railroads of those two companies.

A. It does.

Q. Does it pay the expense of operation ?

A. Yes, sir.

Q. Including taxes ?

A. Including taxes.

Q. How long has that continued?

A. I don't remember the date.

Q. Has it continued for ten years or so?

A. Yes, sir.

Q. Have you the contracts I have referred to here in the court room?

A. I have.

It is stipulated and agreed that the attorney general will be furnished copies of all these contracts, and that he may make such use of them as he sees fit as a part of the cross examination of Mr. Waldo; and that as to the Detroit, Delray & Dearborn and the Buchanan & St. Joseph River Companies, it is stipulated that they may be treated as included in the bill of complaint of the Michigan Central road.

404 Mr. BLAIR: Yes, sir; the same as in the case of the Lake Shore.

Battle Creek & Sturgis contract referred to marked Exhibit A2.

Bay City & Battle Creek contract marked Exhibit B 2.

The Canada Southern Railroad Company, which includes the Canada Southern Bridge Co., the Toledo, Canada Southern & Detroit, and the Michigan, Midland & Canada, marked Exhibit C 2.

The Detroit & Bay City contract marked Exhibit D 2.

The Grand River Valley contract marked Exhibit E 2.

The Jackson, Lansing & Saginaw contract marked Exhibit F 2.

The Kalamazoo & South Haven contract marked Exhibit G 2.

The Michigan Air Line marked Exhibit H 2.

Mr. BUTTERFIELD: That is all of this witness.

Mr. WYKES: That is all; we have no cross examination.

405 Mr. BUTTERFIELD: In the case of the Detroit & Mackinaw Railroad Company I desire to offer in evidence the table appearing on page 31 of the report of that company to the State board of assessors for the year 1902, as follows:

Cash and current assets available for payment of current liabilities:

Cash	38,942.22
Bills receivable.....	
Due from agents.....	14,003.57
Due from solvent companies and individuals.....	18,281.64
Net traffic balance due from other companies.....	
Other cash assets.....	
Insurance paid in advance.....	567.93
Total cash and current assets.....	71,795.38
Balance current liabilities.....	110,948.89
Total.....	182,744.27

Current liabilities accrued to and including April 14, 1902:

Receiver's certificates.....	
Loans and bills payable.....	110,000.00
Audited vouchers and accounts.....	
Wages and salaries.....	69,629.63
Net traffic balance due to other companies.....	3,114.64
Dividends not called for.....	
Matured interest coupons unpaid.....	
Rents due April 14th.....	
Miscellaneous	

Total current liabilities..... 182,744.27

406 On behalf of the Chicago & Northwestern Railway Company I desire to offer the same appearing on page 31 of the report filed with the State board of assessors for the year 1902.

Total cash current assets available for payment of current liabilities:

Cash.....	6,531,242.64
Bills receivable.....	113,032.39
Due from agents.....	2,105,272.87
Due from solvent companies and individuals.....	187,640.56
Net traffic balances due from other companies.....	None.
Other cash assets.....	570,988.93

Total cash and current assets..... 9,508,177.39

Current liabilities accrued to and including March 31, 1902:

Receiver's certificates.....	None.
Loans and bills payable.....	None.
Audited vouchers and accounts.....	2,285,389.05
Wages and salaries.....	1,549,526.92
Net traffic balances due to other companies.....	379,605.00
Dividends not called for.....	8,057.25
Matured interest coupons unpaid..	848,966.27
Rents.....	3,000
Miscellaneous	15,660.00
Dividend declared payable April 4, 1902.....	391,912.50

Total current liabilities..... 5,482,116.99

Mr. BLAIR: Is that for the Michigan line or for the entire system?

Mr. BUTTERFIELD: I suppose it is the entire system, that is the report that was called for.

407 On behalf of the Ann Arbor Railroad Company I desire to offer in evidence the table appearing on page 31 of the original report to the State board of assessors for the year 1902, filed by that company.

Cash and current assets available for payment of current liabilities:

Cash	195,725.71
Bills receivable....	
Due from agents.....	124,591.11
Due from solvent companies and individuals.....	243,039.22
Net traffic balances due from other companies.....	

Total cash current assets.....	563,356.04
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Current liabilities accrued to and including April 14, 1902:

Receiver's certificates	
Loans and bills payable.....	
Audited vouchers and accounts.....	222,439.83
Wages and salaries	60,024.85
Net traffic balances due to other companies.....	17,957.92
Dividends not called for.....	
Matured interest coupons unpaid	76,890.00
Rents due April 14th.....	
Miscellaneous	107,000.55

Total current liabilities.....	377,420.15
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On behalf of the Sault Ste. Marie Bridge Company we offer the table appearing on page 31 in evidence, being the report to the State board of assessors for the year 1902 as follows:

Cash and current assets available for payment of current liabilities:

408 *Cash and current assets available for the payment of current liabilities:*

Cash	5,894.07
Bills receivable.....	
Due from agents.....	
Due from solvent companies and individuals.....	
Net traffic balances due from other companies.....	9,380.93
Other cash assets.....	

Total cash and current assets.....	15,275
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Current liabilities accrued to and including April 14, 1902:

Receiver's certificates ...	
Loans and bills payable.....	
Audited vouchers and accounts.....	
Wages and salaries	
Net traffic balances due to other companies.....	
Dividends not called for.....	
Matured interest coupons unpaid.....	
Rents due April 14th	
Miscellaneous, accrued interest.....	11,250.00

Total current liabilities.....	11,250.00
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On behalf of the Pontiac, Oxford & Northern Railroad Company, I offer in evidence table appearing on page 31 of the original report of that company to the State board of assessors for the year 1902 as follows:

Cash and current assets available for the payment of current liabilities:

409 (Hereafter I will not read the items blank)

Cash	32,516.22
Due from agents.....	11,211.45
Due from solvent companies and individuals.....	3,190.31

Total cash and current assets.....	46,917.98
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Current liabilities accrued to and including April 14, 1902:

Audited vouchers and accounts, together with wages and salaries.....	23,930.44
Net traffic balances due to other companies.....	213.68

Total current liabilities.....	24,144.12
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Mr. BLAIR: I wish you would state, if you will, as you introduce these in evidence, which of these roads are interstate roads and which are wholly within the State.

Mr. BUTTERFIELD: I will to the best of my knowledge.

On behalf of the Manistee & North-eastern Railroad Company I offer in evidence the table appearing on page 31 of its original report to the State board of assessors for the year 1902, and I think this is wholly within the State of Michigan.

Cash and current assets available for the payment of current liabilities:

Cash	1,310.39
Due from agents	14,646.08
Due from solvent companies and individuals.....	8,028.46
Other cash assets.....	51.39

Total cash and current assets.....	24,036.32
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410 Current liabilities accrued to and including June 30, 1902:

Audited vouchers and accounts	44,493.67
Wages and salaries.	600.88
Unfunded debt.....	1,471,361.50

Total current liabilities.....	1,516,456.05
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On behalf of the Marquette & South-eastern Railroad Company, which I think is within the State, I offer in evidence the table appearing on page 31 of its original report to the State board of assessors, for the year 1902:

Cash	2,890.39
Due from solvent companies and individuals.....	1,013.33

Total cash and current assets.....	3,912.72
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Current liabilities accrued to and including April 14, 1902:

Wages and salaries.....	1,361.47
Cleveland Cliffs Iron Company treasurer.....	552,287.67

Total current liabilities.....	553,649.14
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On behalf of the Minneapolis, St. Paul & Sault Ste. Marie Railroad Company which I think is an interstate road, I offer in evidence the table appearing on page 31 of its original report to the State board of assessors, for the year 1902.

Cash and current assets available for the payment of current liabilities:

Cash.....	1,196,152.49
Bills receivable.....	1,971.54
Due from agents.....	336,915.11
411 Due from solvent companies and individuals...	264,212.00
Net traffic balances due from other companies..	154,271.39

Total cash and current assets	1,953,522.53
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Current liabilities accrued to and including April 14, 1902:

Audited vouchers and accounts	492,072.45
Wages and salaries.....	265,536.92
Matured interest coupons unpaid including coupons due July 1st.....	624,140.00
Rents due July 1st.....	2,922.56
Miscellaneous	175,110.11

Total cash liabilities.....	1,559,782.04
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On behalf of the Munising Railway Company, I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902 as follows, and this is wholly in this State I think.

Cash and current assets available for the payment of current liabilities:

Cash	2,675.79
Bills receivable.....	464.29
Due from agents.....	2,002.22
Due from solvent companies and individuals.....	2,719.37
Other cash assets.....	194.96
Total cash and current assets.....	8,056.63

Current liabilities accrued to and including April 14, 1902 :

Loans and bills payable.....	532,120.12
Audited vouchers and accounts.....	5,145.28
412 Wages and salaries.....	8,682.23
Net traffic balances due to other companies.....	2,013.29
Miscellaneous	2,075.35
Total current liabilities.....	550,036.27

On behalf of the Wisconsin & Michigan, which is an interstate road, I offer in evidence the table appearing on page 31 of its original report to the State board of assessors for the year 1902 as follows:

Cash and current assets available for the payment of current liabilities :

Cash	3,878.32
Due from agents.....	2,431.39
Due from solvent companies and individuals.....	36,997.18
Other cash assets.....	142,073.63
Total cash and current assets.....	185,380.52

Current liabilities accrued to and including April 14, 1902 :

Loans and bills payable.....	91,890.32
Audited vouchers and accounts.....	13,344.96
Wages and salaries.....	4,474.65
Net traffic balances due to other companies.....	1,886.74
Matured interest coupons unpaid, including coupons due April 14th.....	266,350.00
Miscellaneous	209,874.55

Total current liabilities..... 587,821.22

On behalf of the Lake Superior & Ishpeming Railroad Company, which I think is not interstate, I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902.

Cash and current assets available for the payment of current liabilities :

Cash	1,580.73
Due from agents.....	82.65
Due from solvent companies and individuals.....	13,897.80
Net traffic balances due from other companies.....	304.57

Total cash and current assets..... 15,865.75

Current liabilities accrued to and including April 14, 1902 :

Loans and bills payable.....	143,750.00
Audited vouchers and accounts.....	1,186.07
Wages and salaries.....	11,997.32
Taxes and suspense.....	2,207.24
W. G. Pollock, treasurer.....	19,705.58

Total 178,846.21

On behalf of the Chicago, Milwaukee & St. Paul Railway Company, I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902, and that is an interstate road.

Cash and current assets available for the payment of current liabilities :

Cash on deposit and on hand.....	15,379,858.73
Due from agents and conductors.....	752,478.76

414 Mr. BLAIR: I object to any evidence with reference to the credits of non-resident companies, on the ground that the credits would follow the domicile of the company.

Mr. BUTTERFIELD :

Due from solvent companies and individuals, including net traffic balances due from other companies...	511,919.57
United States Government.....	121,054.44

Total cash and current assets..... 16,765,311.50

Current liabilities accrued to and including April 30, 1902 :

Audited vouchers and accounts, together with wages and salaries.....	3,099,563.02
Dividends not called for.....	87,338.58
Matured interest coupons unpaid, including coupons due April 30th.....	100,722.50

Total current liabilities 3,287,624.10

On behalf of the Duluth, South Shore & Atlantic I offer in evidence the table appearing on page 31 of the report to the State board of assessors for the year 1902, and this is an interstate road I suppose.

Cash and current assets available for the payment of current liabilities :

Cash	69,922.88
Bills receivable.....	113.85
Due from agents.....	67,856.85
Due from solvent companies and individuals.....	213,671.75
Net traffic balances due from other companies.....	27,096.70

Total cash and current assets..... 378,660.03

Current liabilities accrued to and including June 30, 1902 :

415 Rents and bills payable.....	2,257,275.18
Audited vouchers and accounts.....	521,937.87
Wages and salaries.....	145,776.60

Total current liabilities 2,924,987.67

On behalf of the Mineral Range Railroad Company I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902, and I think this is wholly within the State of Michigan.

Cash and current assets available for the payment of current liabilities :

Cash.....	32,039.61
Due from agents	15,617.80
Due from solvent companies and individuals.. ..	89,194.27

Total cash and current assets..... 136,851.68

Current liabilities accrued to and including June 30, 1902 :

Audited vouchers and accounts	158,403.75
Wages and salaries	28,461.80
Net traffic balances due to other companies.....	26,156.41

Total current liabilities 213,021.96

On behalf of the Pere Marquette railroad, which is an interstate road, I offer in evidence the table appearing upon page 31 of the original report to the State board of assessors for the year 1902.

Cash and current assets available for the payment of current liabilities :

	Cash.....	31,082.79
416	Bills receivable	25,109.85
	Due from agents	639,180.88
	Due from solvent companies and individuals	452,172.56
	Miscellaneous.....	388,728.51

Total cash and current assets 1,536,274.59

Current liabilities accrued to and including April 14, 1902 :

	Loans and bills payable.....	22,000.00
	Audited vouchers and accounts.....	968,922.04
	Net traffic balances due to other companies.....	180,244.28
	Dividends not called for	2,310.00
	Matured interest coupons unpaid including coupons due April 14th.....	38,144.85

Total current liabilities 1,211,621.17

On behalf of the Grand Rapids & Indiana Railway Company, which is an interstate road, I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902.

Cash and current assets available for the payment of current liabilities :

	Cash.....	545,048.92
	Due from agents	164,398.80
	Due from solvent companies and individuals.....	79,279.03
	Net traffic balances due from other companies.....	62,515.26

Total cash and current assets 851,242.01

Current liabilities accrued to and including June 30, 1902 :

	Audited vouchers and accounts	395,765.39
417	Wages and salaries.....	129,729.00
	Dividends not called for.....	225.00
	Matured interest coupons unpaid, including coupons due July 1st.....	117,360.00
	Rents due June 30th.....	28,925.06
	Miscellaneous.....	86,579.17

Total current liabilities..... 758,583.56

On behalf of the Escanaba & Lake Superior Railway Company I offer in evidence the table appearing on page 31 of its original report to the State board of assessors for the year 1902.

Cash and current assets available for the payment of current liabilities :

Cash	23,736.45
Due from insolvent companies and individuals	6,987.66
Total cash and current assets	30,724.11

Current liabilities accrued to and including April 14, 1902 :

Loans and bills payable	507,057.82
Wages and salaries	4,200.18
Miscellaneous	20,277.05
Total current liabilities	531,535.05

On behalf of the Michigan Central Railroad Company I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902 :

Cash and current assets available for the payment of current liabilities :

418 Cash	1,413,340.97
Bills receivable	17,000.00
Due from agents	75,951.38
Due from solvent companies and individuals	345,487.51
Net traffic balances due from other companies	335,754.71
Total cash and current assets	2,187,534.57

Current liabilities accrued to and including June 30, 1902 :

Audited vouchers and accounts	1,070,558.71
Wages and salaries	141,973.99
Dividends not called for, which includes dividend of \$374,760 payable July 29, 1902	381,375.00
Matured interest coupons unpaid including coupons due July 1st	34,815.00
Miscellaneous	1,732,583.96
Total current liabilities	3,361,306.66

On behalf of the Copper Range Railroad Company, which is wholly within the State of Michigan, I offer in evidence the table appearing on page 31 of its report to the State board of assessors for the year 1902.

Cash and current assets available for the payment of current liabilities:

Cash.....	23,439.36
Due from agents.....	5,649.32
Due from solvent companies and individuals.....	33,650.94

Total cash and current assets.....	62,739.62
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Current liabilities accrued to and including April 14, 1902:

419 Loans and bills payable.....	39,867.75
Audited vouchers and accounts.....	114,113.43
Net traffic balances due to other companies.....	7,698.09

Total current liabilities.....	161,679.27
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MR. STANLEY: On behalf of the Detroit, Grand Haven & Milwaukee Railway Company, a railroad entirely within the State of Michigan, I read from its report to the board of assessors found on page 31 for the year 1902:

Cash and current assets available for the payment of current liabilities:

Cash on hand at agency in London, England.....	2,121.72
Bills receivable.....	
Due from agents.....	
Due from solvent companies and individuals.....	5,396.24
Net traffic balances due from other companies.....	
Other cash assets.....	2,204,302.40

Total cash and current assets.....	2,211,820.36
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Balance current liabilities.....	188,234.67
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Total.....	2,350,055.03
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Receiver's certificates, loans and bills payable.....	
Audited vouchers and accounts.....	424,958.73
Wages and net traffic balances and dividends.....	
Matured interest coupons unpaid.....	5,793.90
Rents.....	
Miscellaneous.....	1,919,302.40

420 On behalf of the Toledo, Saginaw & Muskegon Railroad Company, a railroad entirely within the State of Michigan, I offer in evidence its report to the State board of assessors found on page 31 for the year 1902.

Due from solvent companies and individuals.....	209.91
Other cash assets.....	488,580.41
Total.....	488,790.32
Balance.....	394,725.39
Making a total of.....	883,515.71
Audited vouchers and accounts.....	102,000.00
Matured coupons.....	394,935.30
Miscellaneous.....	386,580.41
Total of current liabilities.....	883,515.71

Now the St. Clair Tunnel Company, a corporation having a tunnel extending from Port Huron in Michigan to Sarnia in Canada under the St. Clair river, and is therefore an interstate road, I offer in evidence its report.

Due from solvent companies and individuals.....	1,187.92
Audited vouchers and accounts.....	698.53
Balance of cash assets.....	1,189.39

On behalf of the Grand Trunk Western Railway Company, an interstate road, I offer its report :

Cash, June 30, 1902, reported in personal property as of the 14th of April, 1902, on page 7 of the following reports :

G. T. W.....	5,000
D. G. H. & M.....	4,500
421 C. D. G. J. T. & J.....	1,200
Mal.....	1,000
C. S. & M.....	1,300
T. S. & M.....	1,000

Total.....	14,000
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Due from solvent companies and individuals.....	480,880.44
Other cash assets.....	30,277.85

Total....	523,031.57
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Liabilities :

Audited vouchers and accounts.....	169,932.10
Matured interest coupons.....	218,803.04
Miscellaneous.....	30,277.85

Total of liabilities.....	419,012.99
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Balance of cash assets.....	104,018.58
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Mr. WYKES: I understand there are some of the bills of complaint that do not make any specific allegations as to the inclusion of credits. As to those we object to the testimony that has gone in, read from the reports, and move to have it stricken out.

422 "F. O. GULLIFER being recalled on the part of the complainant, testified as follows:

Direct examination by Mr. ANGELL:

Q. Since yesterday have you been able to ascertain whether any notices of the increase in valuation were sent out either to the Lake Shore, or the South Shore Company by the board of State tax assessors between the 7th of January and the 15th?

A. I find that on January 8th letters were sent to each one of the independent roads, I guess you would call them, controlled by the Lake Shore, stating that the assessment had been made against that particular road, the assessment of the road having formerly been included in the assessment of the Lake Shore, that is, all the Lake Shore properties have been assessed as one property. Also that a letter was sent to the Lake Shore explaining to them this fact, that the independent roads were now assessed and that their assessment had been reduced so much; and I also find that letters of the same tenor were sent January 8th to the Michigan Central Railroad Company and to the different roads controlled by that company, and I also find a memorandum that Mr. Metheany, the auditor of the Grand Rapids and Indiana railroad and Mr. O'Brien, the counsel, waived any such notice as to franchises or to right controlled by the Grand Rapids & Indiana.

Q. Was there any notice sent out to the Lake Shore Company or to any of its subsidiary companies after January 12th and before January 16th?

A. I don't find any record of any such letters having been sent.

Q. Of any kind whatever?

A. I don't think so.

Q. Was there any notice of any kind whatever sent to the Duluth, South Shore & Atlantic Railway Company between the 7th
423 day of January and the 16th day of January, 1903, so far as you can ascertain?

A. I don't find any record of any such notice.

Q. So far as you know of your own knowledge, independent of the record, you know of no notices to either the South Shore or the Lake Shore Companies within the periods I have spoken of respectively, do you, between the 12th of January and the 16th?

A. No, sir; there is no record of that fact, and I don't remember of any such notice being sent out; still I do have a dim recollection of certain letters having been sent to some of these companies, but there is no record of it.

Q. Have you any recollection, dim or otherwise, of any letters being sent to the Lake Shore Company, or any of the subsidiary

companies between the 12th, the day we had the hearing on the seventeen million valuation, and the 16th, the day the rolls were completed.

A. No, sir.

* * * * *

Cross-examination by Mr. WYKES:

Q. The board of assessors during this review kept a stenographic copy of everything that took place, didn't they?

A. I think they did.

Q. That included all the arguments of counsel and the representatives of the railroad companies, and also the statements made by the assessors?

A. I don't know that it is as complete as that. Our Mr. Wilkins took it.

Q. He was there for the purpose of taking everything?

A. He was there for the purpose of taking the testimony.

Q. And if the board of assessors made any statements to the Lake Shore representatives, or to the representative of the Duluth South Shore & Atlantic, it would appear there?

424 A. I think so.

Q. And those were bound and at the present time constitute the public records of your office?

A. Yes, sir. I don't know that he ever wrote up his full notes of that review.

Q. Don't you know that it was all written up and bound in five large volumes?

A. Yes, sir; I think it was. I think it is included in the five large volumes."

"Mr. BUTTERFIELD: I desire to offer in evidence portion of the report of the chief statistician of manufacturers of the United States on street and electric railways for year ending June 30, 1902, prepared in accordance with the provisions of section seven of act of Congress of March 6th, 1902. First I offer a part of page 21.

Mr. WYKES: We object to this as incompetent, irrelevant and immaterial and not the best evidence.

Mr. BUTTERFIELD: It contains the following information for the State of Michigan: That there were twenty-four such railways.

Mr. WYKES (interrupting): I understand you are reading from a printed report?

Mr. BUTTERFIELD: I am reading from the official report.

Mr. WYKES: It is a printed copy.

Mr. BUTTERFIELD: It is a printed document and it bears the facsimile signature of the chief statistician for manufactures of the United States; it shows that in Michigan there were twenty-four such railways for the period covered by the report to which I have referred; that the earnings from operation in the State of Michigan were as follows during that period:

425	From passengers	\$6,014,842.00
	From chartered cars.....	20,313.00
	From freight.....	47,904.00
	From mail	11,143.00
	From express.....	153,224.00
	From sale of electric current for light and power	195,428.00
	From miscellaneous sources.....	51,837.00
	Making a total of.....	<u>\$6,494,691.00</u>

From page 48 the following information for the State of Michigan for the period aforesaid ; this is a table and I will have to read it in the form of a table.

Mr. WYKES : Everything that is taken or read from this book is subject to the objection.

Mr. BUTTERFIELD : It reads as follows :

(Here follows table marked p. 426.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



427 I read in evidence also from the same report on page 158 the total car mileage of said companies for the period covered by the report of freight, mail, express and other cars exclusive of passenger cars was, for the State of Michigan, \$713,375.00.

Mr. WYKES: We object to this and move to strike out everything that was read from the book because it does not appear that it was officially prepared in accordance with the statute that Mr. Butterfield has referred to, or any other statute.

We also move to strike out everything that relates to urban as distinguished from interurban street railways on the ground that it is incompetent, irrelevant and immaterial.

We also move to strike out the entire because there is no data furnished from which to separate the urban from the interurban railways.

We also move to strike out everything which was taken from the report of this statistician or commission or whatever it is claimed to be where the report covered a period beyond the time of the enactment of act 173, which is the statute under which these railroads are taxed.

We object to everything which has been read upon the ground that it does not appear that these roads were not organized under the general railroad law of the State of Michigan, and we make the assertion in regard to at least six of them that they are organized under the general railroad law.

(Book referred to marked Exhibit A, November 25th.) "

" We move to strike out all the evidence taken to show that the general assessments of the general properties of the State are undervalued for the reason that it has not been shown that any undervaluations which may exist, or which there may be some evidence to indicate does exist are the result of fraud, and for the further reason that it does not appear that they are the result of any

428 intentional action on the part of the assessing officers."

429 Page 125, EXHIBIT F, Attached to the Bill Offered by Complainant.

The defendant here objects to the introduction of Exhibit F and to each and every part thereof and to all testimony based upon or explaining the same as incompetent, irrelevant and immaterial.

Jackson County.

Mr. C. A. BLAIR: May it please this honorable board—I have been a very interested listener to the discussions which have taken place here, but I have been somewhat surprised at the fact that one matter which seemed to have escaped attention entirely was the statute governing the action of this board. I had supposed in the past, as I supposed when I came here, that the statute regulated the proceedings of this board, its *modus operandi*, in determining the

equalization between the different counties of this State, and I still adhere to that opinion.

This board is a constitutional board provided for by the constitution of this State over fifty years ago, created in detail by the legislature of 1851, and its duties defined at that time. At the time this board was created Michigan's constitution was vastly different from what it is to-day. The city of Detroit was a comparatively small city; the city of Grand Rapids was still in the womb of the future. The grand industries of this State were lying dormant, and this act is to be construed relative to that situation which confronted the legislature when it passed this act. That legislature provided that this board should make an equalization between the counties of this State according to certain plans, which, I submit, are plainly mapped out in the act itself. It says in the first place that so far as real estate is concerned, its equalization is to be according to location, to soil, to improvements, to production, to manufactories. Then comes a semi-colon; they have finished so far as the equalization with reference to real property is concerned. After the semi-colon is taken up personal property. And it is to be determined by this board then whether the personal property of this State has been uniformly assessed. And how is that to be determined? According to that statistics of the State and information from any source open to this board. Plainly marking out two different systems of procedure, the one based upon the open, notorious and well defined general
430 attributes and aspects of the country; and the other upon the information which may be gathered from statistics and from the other information.

You men who compose this board are State's men, in distinction to county men. You are elected to offices which you hold because you are men of State reputation, supposed to understand the interests of the State, supposed to know those great general features which characterize the State. And so it is that matter is left to this board to determine from those general characteristics how it shall equalize those counties.

And they are to be equalized relatively. And I maintain—and I contend that the law bears me out in that contention—that it is not the duty of this board to undertake to ascertain what the true cash value of a dollar's worth of property is in a single county in the State of Michigan.

431 Page 270, EXHIBIT F, Offered by Complainant.

Correspondence with Attorney General Oren Regarding the Powers and Duties of the State Board of Equalization.

LANSING, August 23, 1903.

Hon. Horace M. Orren, attorney general, Lansing, Mich.

DEAR SIR: At the recent meeting of the State board of equalization, several of the representatives appearing at the hearing discussed

before the board the proper method to equalize the several counties. Some maintained that should be done by bringing each county to the cash value basis, and as though the properties of the several counties were assessed at cash value; while others maintained that the assessments as returned should only be used and a relative equalization made between the counties irrespective of the cash value basis, and whether or not the assessments had been made at cash value. The former claim the constitution, article 14, sections 12 and 13, is controlling while the latter cite section 132 of the Compiled Laws. In support of the former position, it is claimed that if it is made on the cash value basis equalization works its own solution and the statute quoted is met; and if the assessments had been made at cash value then equalization is maintained and no necessity exists to do anything further to comply with the terms of this statute. Much argument has been presented in support of these two positions, the trend of which you, no doubt, understand; and in view of these widely different positions, will you kindly advise us our duty in the premises.

Yours respectfully,

J. E. HAMMOND,
Secretary State Board of Equalization.

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Page 270, EXHIBIT F, Offered by Complainant.

LANSING, Sept. 4, 1901.

Hon. Jason E. Hammond, secretary State board of equalization,
Lansing, Mich.

DEAR SIR: I am in receipt of your letter of the 26th inst., written at the direction of the State board of equalization, and asking my opinion on certain questions hereinafter referred to; and in reply, I beg leave to submit the following:

The duty of the State board of equalization, as expressed in section 132 C. L. 1897, is after having determined whether the assessments of taxable property in the various counties of the State are relatively unequal in their valuations, to add to or deduct from these aggregate valuations such percentage as will produce relative equal and uniform valuations between the several counties.

A compliance with this duty necessarily implies the use of a standard of valuation, a uniform measure by which each assessment is to be gauged and judged. Without such a standard, in terms of which each aggregate assessment can be expressed, relative equality would be impossible of attainment. Our constitution has provided this standard in section 12 of article 14 as follows: "All assessments hereafter authorized shall be on property at its cash value."

The basis of a lawful assessment is the cash value of the property assessed, and if above or below this standard the measure of variation is the measure of the duty of the State board of equalization in reducing the several aggregate assessments to a uniform basis.

It is suggested, however, that equality and uniformity may be equally attained by reducing each of the aggregate assessments, not to a basis of cash valuation, but to a basis of some certain percentage less than cash valuation. In other words, having determined the percentage of variation of each assessment from cash value, it

would be possible to reduce each assessment to a basis of 50
433 per cent., or one per cent., or any per cent. of cash value with resultant equalized values having the same relative equality and uniformity as if each assessment had been reduced to cash value, and I understand the question contained in your letter to be whether some mean percentage of cash value less than full cash value may lawfully be taken by your board as the basis of equalization, and by proper additions and subtractions each aggregate assessment be brought to that basis instead of to the full cash value basis.

If the sole purpose of State equalization was to obtain a basis for the apportionment of State taxes among the several counties, it might plausibly be argued that the board of equalization had full latitude to fix its own basis of equalization; for, with any basis whatever, if uniformly adhered to, the counties would in each case occupy the same relative position as respects the allotment of State taxes. But there is at least one other purpose for State equalization than the apportionment of State taxes, and this purpose indicates unmistakably that the duty of the State board of equalization is not alone to provide a basis for the distribution of the State burdens among the counties in proportion to the taxable property held in each; but, that it is required at the same time and in the same proceeding, to determine the aggregate valuation of the taxable properties of the State. I would refer you to section 1807 C. L. 1897 as amended, where it — provided that there shall be assessed in each year upon the taxable property of the State as fixed by the State board of equalization, for the use and maintenance of the University of Michigan, the sum of one-fourth of a mill on each dollar of said taxable property.

By this section it is seen that the valuation as fixed by the State board of equalization is made the basis for the determination of the aggregate of an important State tax; and if, to the board of
434 equalization was given the latitude of equalizing on any basis they might select less than cash value, they would have the power practically to wipe out this tax; for, granting the latitude, a valid equalization might be made by reducing the valuation of Wayne county to one dollar, Houghton county to 50 cents and other counties in proportion; or by taking 50 per cent. or 75 per cent. of cash value as the basis, the tax might be reduced a half or a quarter from what it would be if cash value was the basis.

But it was manifestly the intention of the legislature, that each dollar of taxable property as found by the board of equalization should bear its quarter of a mill tax, and that the valuation upon which this tax was based should be the valuation of the constitution, viz., cash value. The finding of the board of equalization

under the operation of this act becomes an assessment for the purpose of levying the university tax; and for the board of equalization to make this assessment at less than cash value would be a manifest violation of the constitution.

In this act, we have, therefore, a positive inhibition against equalizing in any other way than by reducing each of the several aggregate assessments to its equivalent on a cash value basis, and thus at the same time establishing the ratios between the several counties and determining the true aggregate value of the taxable property of the State.

That it is the theory and manifest intent of our equalization laws that equalization should be made by reducing or raising faulty assessments to their proper equivalent in terms of cash value is made evident in other ways. Prior to the creation of a State board of equalization under the constitution of 1850, there were county boards of equalization, consisting at first of the county commissioners, and later, after the adoption of the supervisor systems, of the county board of supervisors.

435 Revised Statutes of 1838, pages 82 and 83.
Revised Statutes of 1846, page 106.

These boards were required to review the assessor's valuation of the real estate in each township and to equalize the same by adding thereto or deducting therefrom such per centum as would in their judgment produce, relatively, and equal and uniform valuation of the real estate of the county.

The aggregate valuation of the taxable property of the county as taken from the corrected valuation of the assessment rolls was certified to the auditor general, and the latter apportioned the State tax according to these valuations.

These boards of equalization were acting under laws that required assessments to be at cash value, and although there can be found no positive provision that equalization should be made by bringing all real estate to a cash value basis, yet unless such was the intent the apportionment of State taxes was bound to be unfair and unequal. One county might have equalized on a basis of one-tenth of, another at full cash value. It is inconceivable that all of the counties were not, by implication at least, required to conform to the uniform standard which was required for assessment.

After the establishment of the State board of equalization under the constitution of 1850, it is true that it was held, as to county equalization, that the board of supervisors might adopt their own means of reaching the result, and that a tax payer could not complain, of an equalization at less than cash value inasmuch as he would not be unjustly affected by a uniform assessment at or a uniform reduction on equalization to less than cash value.

Case *vs. Dean*, 16 Mich., 12.

Williams vs. Mears, 61 Mich. 86.

But these cases can not be taken as authority in instances where equalization serves other purposes than apportionment of
436 taxes among the districts whose assessments are equalized.

They can not be accepted even as indicating the duty of equalizing officers, but merely as enunciating the proposition that unless a party is prejudiced by the unauthorized conduct of an officer he is not entitled to complain.

As indicating that *that* it is the policy of our constitution and laws to impose upon equalizing boards the duty of bringing assessments to a cash value standard, I would call your attention to other provisions of our laws.

In the act under which the State board of equalization acts, they are required to take into consideration location, soil, improvements, and manufactories, and also statistics of the State and any information they can gather.

By the State tax commission act the board of tax commissioners, which is charged with the duty of seeing that assessments are made on the basis of actual cash value, is required to furnish information and assist the State board of equalization. While this fact may not be accepted as indicating the proper standard for equalization, yet it is hardly to be conceived that the legislature would have required this assistance to be rendered except to give the board of equalization more accurate information as to the true standard of assessment and the deviation therefrom in the several counties in the State, and all to the end that the final judgment of the State board of equalization might express the more accurately the true valuation of the taxable properties of the State.

By the late constitutional amendments and the legislation based thereon, certain taxes are required to be assessed at a rate equivalent to the average rate of taxation obtaining in the State at large. It may be premature to say that the valuations fixed by the State board of equalization may be taken into consideration by the board
437 of assessors in determining this average rate, and yet a finding by the board of assessors that would indicate that they had taken as their basis for computation an aggregate valuation widely divergent from that found by the State board of equalization, would be to invite controversy and bring about an uncertainty, which an adherence to a cash value standard in both assessment and equalization would obviate. The even balance of our whole taxation system is so intimately connected with the idea of cash valuation, that any divergence from that standard destroys the uniformity and equality which our constitution and laws seek to preserve.

For all these reasons, I would advise the board of equalization that it is its duty, according to its best judgment and information, so to equalize the various aggregate assessments that are submitted to its consideration and review, that the results will express as near as possible, the actual cash value of the taxable properties of each county in the State; and for it to knowingly do otherwise, would,

in my judgment, be a gross disregard of the duties that are imposed upon it by the constitution and laws of this State.

Very respectfully,

HORACE M. OREN,
Attorney General.

LANSING, August 25, 1901.

Hon. Horace M. Oren, attorney general, Lansing, Mich.

DEAR SIR: During the preliminary session of the State board of equalization held for the purpose of permitting representatives of the various counties of the State to present their views concerning the valuations which should be put upon their respective counties, it developed that there was quite a difference of opinion held as to the duty and power of the State board of equalization in the matter of determining relative and total values.

438 We find it held by some students of our State constitution and statutes that the State board of equalization has no power to raise the total assessed value of the State as determined by the local assessors, but must accept the total thus found and distributed it as equally as in the judgment of the board it should be distributed to the various counties of the State. It is held by others that the board should make such changes as in their judgment will bring the valuation of the State to what is termed "cash value," and that the board has full power to change any and all assessments reported to this board by the county assessors.

In view of this difference of opinion on a matter so important it seems best for us to secure your opinion as our legal adviser on such matters before proceeding further. Have we the power to determine the total valuation of the State regardless of the assessors' valuations, or are we to regard the assessments as a whole as having been concluded when the work of the assessors was concluded and computed, and is our duty and function confined to equalizing such assessments between the various counties?

Our next meeting is to be held September 16th and we would greatly appreciate having your opinion on the questions herein asked at that time if possible.

Very respectfully,

PERRY F. POWERS,
Auditor General.

LANSING, September 16, 1901.

Hon. Perry F. Powers, auditor general, capitol.

DEAR SIR: Replying to your letter of August 25th, in which you state on behalf of the State board of equalization, that it was contended by certain advocates before the board at its last session that the board had no power to raise the total assessed value of the State as determined by the local assessors, but must accept the total thus found and distribute it as equally as in the judgment of the board it should be distributed, to the various coun-

439

ties of the State, and upon which contention my opinion is solicited. I have the honor to state as follows:—

In my previous opinion given to the board I have stated that it was the duty of the board to equalize on the basis of actual cash value as ascertained by the board from such information as the statute gives them the right to resort to, viz: location, soil, improvements, production, manufactories, statistics of the State, information furnished by the State tax commission, and from any other source. All assessments shall be equalized by adding or deducting from each such amount as will reduce them to a cash value basis. The aggregate total of the equalization may exceed or be less than the aggregate assessed valuation. If there was any basis for the claim that the aggregate equalized value could not be made to exceed the aggregate assessed valuation, there has been only one valid State equalization in the history of this State, viz. that of 1856, for in every equalization since, the aggregate has quite largely exceeded the aggregate assessment. I can see no possible basis for the contention referred to in your communication, and would advise the board that it should be disregarded.

Very respectfully,

HORACE M. OREN,
Attorney General.

440 Having obtained this advice from the attorney general, the commissioners attended and addressed the meeting of the board of equalization, presented to the board their estimates of the values of the general properties of the State, and took an active part in the discussion before the board.

Protests were made before the board by representatives of various counties upon the ground that the reports of sales upon which the commissioners' deductions were based, were valueless or misleading, and that in many instances the estimates of values made by the commissioners were grossly extravagant.

Nowhere in the report of the proceedings of the board of equalization is there any statement of the basis of the board's valuation, that is to say, whether or not it attempted to determine actual values.

441 Page 282, EXHIBIT F, Offered by Complainant.

Communication from the State Board of Tax Commissioners.

Hon. State Board of Equalization.

GENTLEMEN: The board of State tax commissioners herewith present the information collected for the use of your board in the work of equalization now engaging your attention.

In this work, former boards of equalization were compelled to rely on their general knowledge of the value of property and of conditions existing in the State and on the statements of representatives

who appeared in behalf of their respective counties. These representatives, in many cases, presented arguments carefully and ingeniously prepared, calculated to mislead the boards, and which were a hindrance instead of a help to them in their efforts to arrive at true values and relative assessments.

It is not necessary to say that equalization under such circumstances was mere guess-work, imperfect and altogether unsatisfactory. The legislature understood this situation and made it the duty of the board to be present at your meetings and give such information as you might require. To meet this duty, we have gathered statistics and sought information to assist your board to a reasonable knowledge at least, of the value of the property of the State and of the manner of its assessment by the supervisors and assessors, so that the work of equalizing the State this year may proceed on an intelligent basis and the result be reasonably satisfactory to yourselves and the people.

As your board would not meet until August 19th, it was necessary for us to anticipate as far as possible your wants and proceed without instruction or suggestion from you, to formulate a plan and gather such data for your information as the limited time at our command would permit.

We have been criticised for the expenditure of a large amount of money in this work but, we trust, by those only who speak
442 from prejudice or ignorance of the character and extent of the task undertaken.

We believe you know the difficulties under which the work was done; that the personnel of even our original board of three members was not settled until May 22nd; that the assessment rolls of the townships and cities of this State were not completed until about the first day of June and supervision of this assessment required our entire time until the same was finished; that the work was new and never before conceived or attempted in our State; that the selection of men qualified to examine and express an intelligent opinion of the value of different kinds of property was not an easy task, and that the early date fixed by law for the meeting of your board, when our field work must be finished and its results tabulated, gave too little time for what may be called perfect work, or for its completion in a manner entirely satisfactory to us or to you who know the extent of the territory to be covered and the amount, character and value of property to be examined. And we shall be satisfied if our efforts are appreciated by your board and if the results prove valuable and help you to satisfactory conclusions.

Our board has the record of sales of real estate from all the counties of the State from July, 1898, to July, 1899, showing the names of the parties to each sale, the description of the property and the consideration of the sale as stated in the deed. We have also a record of the assessments of 1898, of the parcels of land described in the above transfers and by correspondence with the supervisors of the State might have learned the assessments of the same property

for the year 1901, and from these figures might have calculated the percentage of assessed valuations to the sale valuations in all, or nearly all, of the assessment districts of the State. But experience has taught us that it is not safe to accept the amount of money
443 stated in deeds as the true considerations of the sales and that a percent. obtained by comparison of these considerations with the assessments of the property described would bring many erroneous results and is of little value. We therefore undertook to verify these considerations, or to prove a sufficient number of them to justify their use and at the same time to learn the value of a sufficient number of other parcels of land in each assessment district so that we might by comparison of these values with the assessments know still more of the work of the assessing officers and the ratio of assessment to true value. We employed the best men we could find and known to be skilled in the work to be done. Many of them worked several months; almost every township in the assessment district was visited, its real estate examined, the consideration of a large number of sales inquired into and verified as far as possible and the value of its property in general ascertained by every means available. They made more than a cursory examination of the property of a township, village or city; they followed instructions and examined the property of an assessment district until they formed an intelligent and well founded judgment of the plan pursued and the character of the work of the assessing officer.

In the limited time at the disposal of the men, comparatively few of the large number of considerations could be proved by actual inquiry of the parties to the sales or even of outside persons having knowledge of the transactions; but much of the property was examined, its value ascertained or carefully estimated, and the judgment of our men is given as to whether from all circumstances and information obtainable the considerations stated in the deeds may reasonably be accepted as the true considerations of the sales.

From the figures thus obtained, we have found the ratio of assessments to sale value of property that is, the percentage which
444 the assessments of a township bear to the considerations of the sales of real estate in such township. This percentage is for the year 1901, and is obtained by comparing the total considerations of the sales of a township with the total of the assessments of the property sold for said year. We present also a table showing the percentage which the assessment of the property of each township bears to the actual value of the property of such township according to the estimate or opinion of value by our men who examined the property.

From the cities of Detroit and Grand Rapids, we also have a record of a large number of recent sales, most of them made or recorded during the present year. The proving of the considerations of these sales was undertaken by correspondence with the parties to the sales, a report being asked from the parties to a sale as to the amount of money actually paid and received, or the true price for which the

sale was made. Our inquiries were generally answered and in such a manner as to justify the use of the information so obtained in calculating the percent, which the assessed valuation of the property of these cities bears to the cash value of the property. The figures thus received and the percentages obtained from them are herewith presented for your consideration.

We have found the cash value of each county of the State by finding the cash value separately of each township and assessment district in a county. To find the cash value of a township, we take the assessed valuation of a township and add to it an amount sufficient to bring it to cash value, the total of the cash value of the townships and assessment districts of a county is the cash value of a county.

We believe that taking the total sales or value of the properties examined in a given county, irrespective of the assessment district in which the lands sold or valued are situated, and calculating the percent, the same bears to the total assessment of the same lands, is not the correct method of obtaining the percent, which the assessments of a county as a whole bear to cash value. There is no such thing as an average per cent. for a county as a whole because the townships have different percents and are of widely different value, but the cash value of the several townships of a county must be figured out separately by applying to each its proper percents and the total of the townships so obtained is the value of the real estate of the county.

A different method has been employed to obtain the value of Upper Peninsula counties where the mines, *where the mines* are situated and forming to considerable extent the value of the counties.

The field-men sent to those counties made no effort to obtain the value of the mines, but confined their work to obtaining the value of the general properties of the counties and learning the assessment thereof, the same as in other parts of the State. Using the data thus obtained the value of the county was worked out by the plan explained above, but to this value is added the value of the mines as found by our board. To find the value of the mines, we used the method employed by this commission in its reviews of these mines in the fall of 1900, changing the same only as conditions have changed and considering the assessments made thereon.

The market value of the stocks of the copper mines is about the only data obtainable by which to learn the sale value or "usual selling price" of such a mine. The sale of stock is usually the only sale made of any part of or interest in a copper mine. The fluctuations and speculative conditions of the markets have been duly considered, and being free from all bias or selfish interest, we have ascertained their value as nearly, we believe, as can be done by anyone.

The assessment of the iron mines by the supervisors in the townships where located are accepted as correct, except in Gogebic county, in which county we have taken the values of the mines as

fixed by the tax commission in its reviews held there last year, and used other data collected by the commission.

Although your board have asked the attorney general of the State for his opinion and will doubtless be governed by it, we beg to say that in our opinion, equalization should be on the basis of "cash value." We urged this opinion at the meetings of your board and are now as firmly convinced as at that time that the proper equalization can be made only by placing the valuations of the counties of the State at their "cash value" as nearly as the same can be ascertained. The law of the State, we insist, recognizes no standard of value but "cash value," and no assessment roll is right or in conformity to law that does not list all the property of its assessment district and impress it all with its cash value, and the assessment rolls of the State are not in conformity to law if any one or more of them lack this requirement. The board of supervisors of a county should, in harmony with all law of equalization, equalize the assessment rolls of the townships by adding to the roll of each township an amount equal to the value of such of the property of the township as has been omitted from the roll or is placed thereon at a figure below its cash value, and by considering the rolls of all the townships and treating them all alike in this respect. And the State board of equalization should treat the counties of the State as a board of supervisors should treat the townships and assessment districts of a county. If each assessing officer of the State places upon his roll the same relative or proportionate
447 part of the property of his district as appears on the rolls of all other districts, or assesses all the property of his district at the same relation to its cash value as does every other assessing officer of the State, it has been urged that the assessments of the State are relatively equal or that equalization can by this means be accomplished; but by such a plan each and every assessment roll in the State is wrong and equalization of the State on this basis is wrong and fails to comply with either the letter or the spirit of the law. It may truthfully be said of equalization on such a basis that no injustice is done because all are equally or to a like extent wrong. But how can it be known that all are equally or proportionately wrong except one first finds the figure or amount at which each would be right and then deducts from each the same relative amount or else reduces them all by the same per cent. We believe the constitution and statutes mean what they say, and we respectfully advise compliance with them on your part. We suggest that you find the amount that will represent the cash value of a county and save the trouble of deducting a percentage of this amount; let this amount stand as the figure at which the county is to be equalized and the total of these amounts is the proper cash value of the State and the amount at which it should be equalized.

Article XIV, section 12 of the State constitution provides that "all assessments authorized shall be on property at its cash value," and the general statute-, respecting the assessment of properties pro-

vide no other standard but impose the same in most mandatory terms. Section 13 following of said article provides that "the legislature shall provide for an equalization of assessments by a State board." It has so provided in creating your board. The legislature of this State has not only defined what is meant by "cash value," but in our judgment, has absolutely fixed a standard from which

448 no departure can be made in the assessments or equalization thereof, namely: "The words "cash value," whenever used in this act shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale and not at forced or auction sale."—Section 27 of the General Tax Laws. It provides further therein that the assessors shall consider, in determining that value, all things else tending to give value to the property to be assessed.

In other words, the assessor is required to find the worth of property by what it has been sold for and what it would be apt to sell for in the usual and ordinary way, the seller wanting to sell, not being forced, and the purchaser desiring to buy.

If all the assessing districts of a county were assessed at cash value, manifestly equalization of assessment of taxes in that county is attained; so it is in the State, if all the counties are assessed at cash value, equalization of assessments for State taxes is likewise attained. Equalization, when changes are made in the fixed amount of the total assessment, is only necessary, therefore, when the assessments are unequal; that is, make equal, as the word implies, by "equalization" an unequal condition if it exists. It follows, if all the properties are assessed at cash value, no change is necessary by equalization, for they are already equal or "equalized," and if not, they are to be made so through equalization. Since the constitution and statute of the State require property to be assessed at cash value and the constitution imposes equalization of those assessments, it must follow that equalization for State taxation purposes or any other, is attained and should be brought about on the cash basis of a county and no other; otherwise State supervision and authority is lending its aid to an unlawful proceeding.

449 We believe this to be in entire harmony with another statute of this State, Compiled Laws 132, defining your duties to "determine whether the relative value between the several counties is equal and uniform," and if the assessments "shall be determined relatively unequal you shall equalize the same by adding to or deducting from the aggregate valuation of taxable real and personal estate in such county or counties, such percentage as will produce relative, equal and uniform valuation between the several counties in the State." If the assessments then of the counties are determined to be above or below cash value (the only value of which in law we have any right to speak) then add to or deduct from the aggregate valuation of taxable property in their respective counties

such amount as will produce, relatively, equal and uniform cash valuation between all the counties. It follows, if it be determined that all the counties are below cash value (a condition well known to exist), that such percentage or amount must be added as will bring each to this cash valuation basis; and equalization certainly will be attained.

Some have urged that it is impossible to know the cash value of the several counties of the State, but we answer that it is just as difficult to arrive at any other valuation, so that a relative, equal and uniform assessment can be made. Equalization whether attempted at 75 per cent. or any other per cent. of value, must find common ground at cash value because the 100 per cent., the cash value, is the starting point for all percentages or computations. Thus reasoning, we will see that we are driven to the cash value basis as the only lawful standard by which to equalize the several counties of the State.

In brief, we have attempted to treat this State as one great assessing district and the several counties thereof as citizens having property subject to taxation, endeavored to learn the assessable cash value of the property of the "citizen" and bring it to the
450 assessment roll according to the wealth of the holding to produce equal taxation among the several "citizens" of the one great district and secure equalization among the several counties. If one of these "citizens" is not assessed on the wealth of his holding or at cash value, then add such a percent. as would assess at cash value and equalization works its own solution.

With that as the center thought of our work we started out to know, as best the human mind could know, how the several hundred assessing officers were assessing the properties of the State. Since the end to be obtained is equalization between counties for State taxation purposes, necessarily we grouped the several assessing districts of a county together and treated the county as a unit and sought to learn the worth or cash value of each county by learning the worth or cash value of each assessing district therein.

We believe that cash value of property means the "usual selling price," or that which it could be sold for hereinbefore mentioned, and that the statute thus absolutely governed the course or plan to be adopted, namely, to learn that cash value of a sufficient and large number of properties of a given district, by getting at the actual selling price of same and what could be obtained therefor if sold, as the statute defines, and then learning how these same properties were assessed.

It was, of course, physically impossible to make an assessment of all the properties of the State, and we assumed, properly we believe, that the assessments of property in a given district were relatively equal and applying this rule determined how each assessing officer was assessing compared to "cash value."

The plan of equalization, above mentioned, being employed throughout in each assessing district and each county impressed with the same idea or thought, in our judgment, reached a common

451 basis, eminently fair to all. In fact, it is the only way for your or our board to reach cash value except by an assessment of all the properties of the State, at actual value—an undertaking manifestly impracticable or impossible to be performed. Accordingly we submit to your honorable board the tabulated sheets mentioned, showing, in our judgment, the cash value of the real estate of the several counties of the State and the respective assessment districts therein, treating cities as one assessment district. The amount of personal property as assessed also appears upon the sheets, to be considered or used as your board may deem proper.

Since the adjournment of your board we have gone over the work in a most painstaking manner, eliminated errors, rechecked and compiled the work and bring the result of our labors to you in as good, comprehensive form as possible.

It was obvious to the commission from the very start that we would not be able to furnish the information you might require unless we pursued the theory and policy above marked out; and we undertake to say, in the light of our constitution and statutes, that no other plan was possible or feasible; if there was any other, it has not come to us even as a suggestion from you, the many representatives appearing for the counties, or any one else; so we are resting in the belief that we have done our duty and performed a task of inestimable benefit, and never before attempted in the history of this or any other State.

Since the foregoing was written the opinion of the attorney general, given to your board respecting equalization at cash value, has come to our attention, and it is to be observed that it is along the above lines and supports the position taken by this commission.

A. F. FREEMAN.

WM. T. DUST.

IRA T. SAYRE.

J. C. M'LAUGHLIN.

MANVILLE JENKS.

452 *Table showing the percentage which the assessment of the property of each township bears to the actual value thereof according to the estimate or opinion of value by the field examiners in the employ of the board of State tax commissioners, included in the report of the board of State tax commissioners to the State board of equalization.*

Offered by complainant.

453 The following is a copy of the table relating to Alcona county contained in Exhibit F, page 289, being the report of the board of supervisors of the assessment and equalization of property in the several townships of Alcona county for 1901, to which is added a column showing the estimate of the field examiner of the percentage of assessed valuation to real value. The tables following that of Alcona county show only the percentages referred to, omitting the valuations as assessed and equalized as shown in the reports of the boards of supervisors, which reports do not contain the percentages referred to.

Supervisors' Equalization—1901.

NOTE.—The county statements are printed as filed with the auditor general, except such additions of totals or other figures omitted from the originals as were elsewhere clearly intended. Through some misunderstanding three counties, Alcona, Leelanau and Muskegon, — equalized by deducting from or adding to the assessed value of the personal property as well as the real. Discrepancies which were evidently clerical are harmonized in the tabulation following the county tables herein, in accordance with the evident intent. The text of the certificate is omitted from all except the first county.—Sec.

Alcona County.

Statement of Acreage and Valuation in the Year 1901, Made in Pursuance of Section 136, Compiled Laws.

Township or ward.	Acres assessed.	Tax commission percentages.*	Valuation as assessed.		Total valuation as assessed.	Valuation as equalized.		Total valuation as equalized.
			Real estate.	Personal property.		Real estate.	Personal property.	
Alcona	35,791.37	72.8	\$36,710	\$122,440	\$159,150	\$36,710	\$122,440	\$159,150
Curtis.....	37,456.65	83.3	57,515	13,592	71,107	63,210	13,314	76,524
Caledonia ..	29,824.20	49.0	46,073	5,970	52,043	45,725	5,480	51,205
Gustin.....	20,457.36	87.5	131,972	19,820	151,792	131,833	19,516	151,349
Greenbush....	14,427.50	86.0	32,425	5,270	37,695	27,505	5,375	32,880
Harrisville....	18,261.14	72.0	236,542	67,179	303,721	238,832	67,929	306,761
Haynes.....	20,506.27	77.9	107,095	12,135	119,230	107,685	12,820	120,205
Hawes.....	43,116.87	87.0	45,770	8,252	54,022	45,790	8,252	54,042
Mikado.....	21,514.62	97.1	59,926	7,778	67,704	59,431	7,778	67,209
Michell.....	69,660.46	76.8	48,837	100	48,937	55,829	100	55,929
Millen.....	44,136.04	76.8	32,573	40	32,613	32,218	40	32,258
Totals for county.....	355,152.48	.....	\$835,438	\$262,576	\$1,098,014	\$844,768	\$262,744	\$1,107,512

*The figures in this column are not a part of the official report of the county board of supervisors to the auditor general. This explanation applies to all counties.

OFFICE OF THE BOARD OF SUPERVISORS OF ALCONA COUNTY,

HARRISVILLE, MICH., June 27, 1901.

We hereby certify that the foregoing is a true statement of the number of acres of land in each township and ward in the county of Alcona, and of the value of the real estate and of the personal property in each township and ward in said county as assessed in the year 1901, and of the aggregate valuation of the real estate and personal property in each township and ward in said county as assessed in the year 1901, at a meeting of said board held in pursuance of the provisions of the provisions of section 134 of the Compiled Laws. We further certify that said statement does not embrace any property paying specific taxes.

ALEX. McNEIL, Chairman of Board of Supervisors.

GEO. RUTSON, Clerk of Board of Supervisors.

Dated at Harrisville this 27th day of June, 1901.

Page 289, EXHIBIT F.

Alcona County.

Township or ward.	Tax commission percentages.
Alcona	72.8.
Curtis	83.3.
Caledonia	49.0.
Gustin	87.5.
Greenbush	86.0.
Harrisville	72.0.
Haynes	77.9.
Hawes	87.0.
Mikado	97.1.
Mitchell	76.8.
Millen	76.8.

Alger County.

Au Train	75.0.
Burt	86.0.
Limestone	75.0.
Mathias	70.0.
Munising	90.0.
Onota	90.0.
Rock River	75.0.

Allegan County.

Allegan	76.8.
Casco	79.1.
Cheshire	78.2.
Clyde	72.0.
Dorr	81.9.
Fillmore	79.4.
Ganges	79.4.
Gun Plains	90.3.
Heath	79.4.
Hopkins	80.8.
Lake Town	66.3.
Lee	70.0.
Leighton	78.8.
Maulius	86.7.
Martin	82.7.
Monterey	86.1.
Otsego	79.4.
Overisel	93.6.
Salem	88.8.
Saugatuck	66.3.
Trowbridge	91.4.
Valley	88.2.
Watson	81.8.
Wayland	84.2.

Alpena County.

Township or ward.	Tax commission percentages.
Alpena	55.3.
Green	79.8.
Long Rapids.....	76.
Maple Ridge.....	93.5.
Ossineke.....	87.1.
Sanborn	83.0.
Wilson	82.4.
Alpena City.....	96.0.

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Antrim County.

Banks	93.3.
Central Lake	87.4.
Chestonia	54.9.
Custer.....	73.8.
Echo.....	69.8.
Elk Rapids.....	81.7.
Forest Home	84.9.
Helena.....	64.6.
Jordan	80.6.
Kearney	68.1.
Mancelona.....	99.3.
Milton.....	89.0.
Star	52.2.
Torch Lake.....	83.0.
Warner.....	70.3.

Arenac County.

Adams.....	96.6.
Arenac.....	88.8.
Au Gres	64.5.
Clayton	83.8.
Deep River.....	93.3.
Lincoln.....	92.8.
Mason.....	85.4.
Moffatt	66.7.
Standish	89.1.
Turner	95.9.
Whitney	67.2.

Baraga County.

Arvon	52.6.
Baraga	50.1.
Covington.....	57.2.
L'Anse	43.0.
Spur	48.2.

Barry County.

Township or ward.	Tax commission percentages.
Assyria.....	70.6.
Baltimore.....	64.3.
Barry	83.6.
Carlton	67.5.
Castleton.....	77.4.
Hastings.....	73.0.
Hope	60.8.
Irving.....	65.5.
Johnstown	79.4.
Maple Grove.....	69.6.
Orangeville	61.9.
Prairieville.....	70.0.
Rutland.....	66.0.
Thornapple.....	73.9.
Woodland.....	71.1.
Yankee Springs.....	87.5.
Hastings City.....	72.1.
1st & 4th wards.	
2nd & 3rd wards.	

Bay County.

Bangor	84.8.
Beaver	82.9.
Frankenlust.....	71.9.
Fraser.....	74.9.
Garfield	70.0.
Gibson	85.8.
Hampton	91.4.
Kawkawlin	84.2.
Merritt.....	72.6.
Monitor.....	82.6.
Mount Forest.....	68.1.
Pinconning	57.9.
Portsmouth	81.5.
Williams	76.7.
Bay City.....	91.9.
West Bay City.....	91.3.

Benzie County.

Almira.....	82.9.
Benzonia	92.5.
Blaine.....	64.0.
Colfax.....	78.8.
Crystal Lake	89.3.
Gilmore	76.6.
Homestead.....	82.7.

Township or ward.	Tax commission percentages.
Inland	62.4.
Joyfield	78.5.
Lake	91.7.
Platte	78.0.
Weldon.....	65.9.
Berrien County.	
Bainbridge.....	73.4.
Benton	66.4.
Benton Harbor.....	72.6.
1st ward,	
2nd "	
3rd "	
4th "	
Berrien.....	70.8.
Bertrand	65.0.
Buchanan	56.4.
Chickaming.....	44.8.
Galien.	67.9.
Hager.....	71.8.
Lake	49.5.
Lincoln.....	35.1.
New Buffalo.....	59.1.
Niles.....	76.9.
Niles City.....	68.4.
1st ward,	
2nd "	
3rd "	
4th "	
Orinoco.....	66.3.
Pipestone	44.9.
Royalton	46.0.
Sodus	59.2.
St. Joseph.....	62.9.
St. Joseph City.....	67.1.
1st ward,	
2nd "	
3rd "	
4th "	
457 Three Oaks.....	72.1.
Weesaw.....	77.2.
Watervliet.....	*54.4.

* This does not include resort property on Paw Paw lake, assessed at \$19050.00, the actual value of which is \$135,000.00.

Branch County.

Township or ward.	Tax commission percentages.
Algansee.....	72.5.
Batavia.....	66.4.
Bethel.....	71.9.
Bronson.....	73.0.
Butler.....	75.7.
California.....	58.2.
Coldwater.....	79.1.
Coldwater City.....	75.6.
1st ward,	
2nd "	
3rd "	
4th "	
Girard.....	74.4.
Gilead.....	77.8.
Kinderhook.....	68.6.
Matteson.....	71.3.
Noble.....	74.5.
Ovid.....	72.6.
Quincy.....	77.1.
Sherwood.....	75.3.
Union.....	72.8.

Calhoun County.

Athens.....	75.1.
Albion.....	72.4.
Albion City.....	54.7.
1st ward,	
2nd "	
3rd "	
4th "	
Burlington.....	69.4.
Battle Creek.....	84.1.
Battle Creek City.....	70.2.
Bedford.....	95.4.
Clarence.....	64.2.
Clarendon.....	74.9.
Convis.....	86.1.
Eckford.....	75.5.
Emmet.....	76.9.
Fredonia.....	73.2.
Homer.....	59.0.
Lee.....	59.2.
Le Roy.....	64.9.
Marengo.....	88.0.
Marshall.....	84.6.

Township or ward.	Tax commission percentages.
Marshall City.....	70.1.
1st ward.....	
2nd ".....	
3rd ".....	
4th ".....	
458 Newton.....	72.6.
Penfield.....	86.0.
Sheridan.....	76.3.
Tekonsha.....	70.9.
Cass County.	
Marcellus.....	66.6.
Volinia.....	72.9.
Wayne.....	79.3.
Silver Creek.....	80.1.
Pokagon.....	70.6.
La Grange.....	77.3.
Penn.....	61.7.
Newburg.....	71.6.
Porter.....	85.2.
Calvin.....	77.2.
Jefferson.....	81.6.
Howard.....	67.0.
Milton.....	71.6.
Ontwa.....	74.4.
Mason.....	80.8.
Dowagiac, city.....	48.9.
Charlevoix County.	
Bay.....	74.9.
Boyne Valley.....	80.7.
Chandler.....	57.0.
Charlevoix.....	79.8.
Eveline.....	91.0.
Evangeline.....	78.3.
Hayes.....	69.1.
Hudson.....	78.0.
Marion.....	30.3.
Melrose.....	76.0.
Norwood.....	92.5.
Peaine.....	77.8.
St. James.....	78.6.
South Arn.....	75.6.
Wilson.....	84.0.

Cheboygan County.

Township or ward.	Tax commission percentages.
Cheboygan City.....	78.7.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
Beaugrand	65.2.
Benton.....	70.0.
Burt	41.5.
Ellis.....	65.0.
Forest	77.7.
Grant	66.6.
Hebron.....	79.0.
Inverness	77.7.
Mackinaw	77.2.
Mentor	81.3.
Munroe	67.1.
Nunda.....	53.3.
Tuscarora	71.7.
Waverly.....	75.3.
Wilmot	83.3.

Chippewa County.

Bruce.....	65.0.
Dafer.....	65.0.
De Tour.....	80.0.
Drummond	50.0.
Kinross.....	90.0.
Pickford	65.0.
Rabor.	60.0.
Rudyard.....	80.0.
Sault Ste. Marie.....	100.0.
Sugar Island.....	50.0.
Superior	75.0.
Trout Lake.....	60.0.
White Fish.....	40.0.
Sault Ste. Marie City.....	100.0.

Clare County.

Arthur.....	56.0.
Franklin	46.3.
Frost.....	69.5.
Garfield.....	55.2.
Grant	66.8.
Greenwood.....	62.5.
Hamilton.....	31.2.

Township or ward.	Tax commission percentages.
Hatton.....	53.1.
Hayes	46.4.
Reading	61.4.
Sheridan.....	45.3.
Summerfield.....	47.8.
Surrey.....	79.4.
Winterfield.....	55.7.
Clare City.....	59.4.
1st ward,	
2nd "	
3rd "	
Harrison City.....	71.2.
1st ward,	
2nd "	
3rd "	
Clinton County.	
Bath....	82.5.
Bengal	69.5.
Bingham.....	94.0.
Dallas.....	74.8.
De Witt.....	72.6.
Duplain	83.0.
Eagle	78.8.
Essex	75.7.
Greenbush.....	75.1.
Lebanon.....	68.7.
Olive.....	76.8.
Ovid	79.0.
Riley.....	82.3.
Victor	76.1.
Watertown.....	78.0.
Westphalia.....	78.6.
Crawford County.	
Beaver Creek.....	50.0.
Frederic	47.7.
Grayling.....	57.6.
Maple Forest.....	87.4.
South Branch	59.3.
Delta County.	
Baldwin	49.4.
Bark River.....	32.9.
Bay de Noc	65.2.
Escanaba.....	55.6.
Fairbanks	83.8.
Ford River.....	39.7.

Township or ward.	Tax commission percentages.
Garden	101.6.
Maple Ridge	34.6.
Masonville	60.4.
Nahma	49.2.
Sac Bay	69.6.
Wells	66.6.
Escanaba City	42.9.
Gladstone City	73.9.

Dickinson County.

Breen	*29.8.
Breitung	*37.5.
Felch	33.5.
Norway	59.5.
Sagola	36.2.
Waucadah	62.4.
Iron Mountain City	70.1.
City of Norway	77.2.
1st ward,	
2nd "	
3rd "	

* These percentages do not include assessed valuation of several mines. Assessors should inquire of tax commission.

Eaton County.

Bellevue	90.9.
Benton	97.3.
Brookfield	79.8.
Carmel	91.5.
Chester	87.8.
Charlotte	78.8.
Delta	88.0.
Eaton	91.3.
Eaton Rapids	89.1.
Eaton Rapids City	81.0.
Grand Ledge City	78.5.
Hamlin	84.0.
Kalomel	87.4.
Oneida	91.4.
Roxand	82.0.
Sunfield	93.0.
Vermontville	86.6.
Walton	89.7.
Windsor	91.0.

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Emmet County.

Township or ward.	Tax commission percentages.
Bear Creek.....	80.8.
Bliss.....	64.0.
Carp Lake.....	68.6.
Center.....	65.8.
Cross Village.....	84.1.
Egleston.....	86.6.
Friendship.....	69.8.
Littlefield.....	72.4.
Little Traverse.....	55.0.
Maple River.....	82.9.
Pleasantview.....	69.7.
Readmond.....	71.6.
Resort.....	87.6.
Springvale.....	72.7.
West Traverse.....	59.3.
City of Petoskey.....	90.0.

Genesee County.

Argentine.....	83.2.
Atlas.....	94.2.
Burton.....	79.5.
Clayton.....	84.4.
Davison.....	88.1.
Fenton.....	80.3.
Flint.....	82.6.
Flushing.....	87.8.
Forest.....	70.6.
Gaines.....	76.6.
Genesee.....	82.1.
Grand Blanc.....	82.1.
Montrose.....	79.7.
Mount Morris.....	83.3.
Mundy.....	74.7.
Richfield.....	81.9.
Thetford.....	80.2.
Vienna.....	78.4.
Flint City.....	77.4.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	

Gladwin County.

Township or ward.	Tax commission percentages.
Beaverton.....	71.1.
Bentley	79.2.
Billings.....	72.7.
Bourret.....	82.2.
Buckeye	75.6.
Butman	85.9.
Clement	88.1.
Gladwin	83.0.
Grout.....	80.7.
Sage	77.3.
Sherman.....	86.3.
Tobacco	52.0.
City of Gladwin.....	89.4.

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Gogebic County.

City of Ironwood.....	73.0.
City of Bessemer.....	66.8.
Ironwood.....	56.3.
Bessemer.....	50.0.
Wakefield.....	37.9.
Marenisco.....	87.5.
Watersmeet.....	56.0.

Grand Traverse County.

Acme.....	59.8.
Blair.....	81.9.
East Bay	70.7.
Fife Lake.....	62.9.
Garfield	67.9.
Grant.....	65.7.
Green Lake.....	87.4.
Long Lake.....	70.9.
Mayfield.....	59.2.
Paradise.....	64.6.
Peninsula.....	57.0.
Union	69.2.
Whitewater.....	61.9.
Traverse City.....	78.9.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	

Gratiot County.

Township or ward.	Tax commission percentages.
Arcada.....	83.2.
Bethany.....	60.7.
Elba.....	56.6.
Emerson.....	61.8.
Fulton.....	68.6.
Hamilton.....	83.3.
Ithaca.....	73.2.
Lafayette.....	76.6.
Newark.....	77.1.
New Haven	69.7.
North Shade.....	69.9.
North Star	62.8.
Pine River.....	71.4.
Seville.....	71.2.
Sumner.....	71.9.
St. Louis.....	74.9.
Washington.....	67.2.
Wheeler.....	60.8.

Hillsdale County.

Adams.....	77.3.
Allen.....	80.9.
Amboy	69.1.
Cambria	76.6.
Camden.....	72.2.
Fayette.....	89.9.
Hillsdale.....	84.1.
Jefferson.....	73.7.
Litchfield.....	81.8.
Moscow.....	81.5.
Pittsford	77.2.
463 Ransom.....	67.6.
Reading	81.0.
Scipio.....	83.2.
Somerset.....	81.6.
Wheatland.....	82.7.
Woodbridge.....	73.8.
Wright.....	62.1.
City of Hillsdale.....	79.8.

Houghton County.

Township or ward.	Tax commission percentages.
Adams	*70.8.
Calumet.....	49.4.
Chassell.....	51.9.
Duncan.....	54.3.
Elm River.....	47.2.
Franklin.....	64.2.
Hancock.....	39.9.
Laird	51.9.
Osceola	43.0.
Portage.....	48.7.
Quincy	86.1.
Schoolcraft.....	55.5.
Torch Lake	68.1.

* These percentages do not include assessed valuations of several mines. Assessors should inquire of tax commission.

Huron County.

Bingham.....	79.3.
Bloomfield	84.3.
Brookfield	63.1.
Caseville.....	83.4.
Chandler	68.1.
Colfax.....	68.1.
Dwight.....	84.2.
Fair Haven.....	80.0.
Gore.....	82.2.
Grant.....	67.7.
Hume.....	77.0.
Huron.....	98.4.
Lake.....	91.7.
Lincoln.....	89.9.
Meade.....	82.6.
Oliver	75.0.
Paris.....	77.1.
Port Austin.....	76.8.
Rubicon.....	93.2.
Sand Beach	81.2.
Sebewaing.....	88.2.
Sheridan.....	85.2.
Sherman.....	77.2.
Sigel	92.5.
Verona	84.1.
Winsor	81.7.

Ingham County.

Township or ward.	Tax commission percentages.
Alaiedon	79.8.
Aurelius.....	82.6.
Bunkerhill.....	80.9.
Delhi	83.9.
Ingham	85.4.
Lansing	81.0.
Lansing City.....	50.8.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
Leslie	78.9.
Leroy	84.6.
Locke	77.3.
Mason City.....	83.1.
1st ward,	
2nd "	
Meridian.....	83.9.
Onondaga.....	79.0.
Stockbridge	71.6.
Vevay.....	79.6.
Wheatfield.....	79.5.
White Oak.....	73.2.
Williamston	80.2.

Ionia County.

Belding City.....	73.2.
1st ward,	
2nd "	
3rd "	
Berlin.....	70.5.
Boston	72.0.
Campbell	70.6.
Danby.....	75.8.
Easton.....	78.9.
Ionia.....	88.9.
Ionia City	80.1
1st & 2nd wards,	
3rd & 4th wards.	
Keene.....	79.5.
Lyons	72.5.
North Plains.....	77.1.
Odessa	85.3.
Orange	70.8.

Township or ward.	Tax commission percentages.
Orleans.....	90.4.
Otisco	78.7.
Portland.....	75.4.
Ronald	84.4.
Sebewa	61.1.

Iosco County.

Alabaster	84.5.
Au Sable	100.0.
Baldwin	84.7.
Burleigh.....	67.8.
Grant	80.2.
Oseonda	87.5.
Plainfield	85.9.
Reno.....	84.4.
Sherman.....	92.8.
Tawas	83.6.
Wilber	73.9.
Au Sable City	94.4.
1st ward,	
2nd ward,	
3rd ward,	
Tawas City.....	83.4.
1st ward,	
2nd ward,	
3rd ward,	
East Tawas City (1, 2, 3 wards)	83.4.

Iron County.

Atkinson	*30.9.
Bates	45.7.
Crystal Falls.....	60.6.
Hematite ..	75.9.
Iron River	53.5.
Mastodon.....	70.8.
Mansfield	35.3.
Stambaugh.....	56.9.
City of Crystal Falls.....	73.6.

*These percentages do not include the assessed valuation of several mines. Assessors should inquire of the tax commission.

Isabella County.

Coe	63.6.
Lincoln	77.1.
Fremont.....	61.4.
Rolland.....	51.1.
Broomfield	68.6.

Township or ward.	Tax commission percentages.
Deerfield.....	70.3.
Union.....	77.2.
Chippewa.....	78.8.
Denver.....	59.5.
Isabella.....	55.1.
Nottawa.....	71.8.
Sherman.....	98.2.
Coldwater.....	66.4.
Gilmore.....	89.3.
Vernon.....	66.0.
Wise.....	62.6.
City of Mount Pleasant.....	82.4.

Jackson County.

	Blackman.....	64.5.
	Columbia.....	86.0.
	Concord.....	85.0.
	Grass Lake.....	88.4.
	Hanover.....	89.9.
	Henrietta.....	69.4.
	Leoni.....	77.4.
	Liberty.....	81.8.
	Napoleon.....	86.3.
	Norvell.....	93.2.
	Parma.....	90.2.
466	Pulaski.....	77.0.
	Rives.....	73.0.
	Sandstone.....	93.2.
	Spring Arbor.....	86.7.
	Springport.....	87.5.
	Summit.....	84.5.
	Tompkins.....	86.9.
	Waterloo.....	44.1.
	Jackson City.....	57.8.
	1st ward.	
	2nd "	
	3rd "	
	4th "	
	5th "	
	6th "	
	7th "	
	8th "	

Kalamazoo County.

Township or ward.	Tax commission percentages.
Alamo.....	72.3.
Brady.....	62.4.
Charleston... ..	72.7.
Climax.....	72.0.
Comstock	70.9.
Cooper	77.1.
Kalamazoo	60.8.
Kalamazoo City.....	58.6.
Oshtemo.....	72.9.
Pavilion	65.0.
Portage.....	73.7.
Prairie Ronde.....	72.4.
Richland	69.9.
Ross.....	79.0.
Schoolcraft	67.9.
Texas	63.8.
Wakeshma.....	66.3.

Kalkaska County.

Boardman.....	83.9.
Cold Springs.....	79.9.
Clearwater.....	73.6.
Excelsior.....	70.0.
Garfield	70.8.
Kalkaska.....	78.5.
Oliver	75.8.
Orange.....	70.2.
Rapid River.....	75.8.
Springfield.....	85.9.
Wilson.....	85.7.

Kent County.

Ada.....	84.6.
Algoma	67.8.
Alpine.....	71.0.
Bowne.....	83.4.
Byron	72.1.
Caledonia	76.6.
Cannon.....	71.8.
Cascade.....	76.4.
Courtland.....	64.7.
Gaines.....	75.8.
Grand Rapids	58.6.
Grattan	74.4.
Lowell	63.3.
Nelson	57.2.
Oakfield	66.8.

Township or ward.	Tax commission percentages.
Paris	59.7.
Plainfield	73.4.
Solon.....	61.1.
Sparta.....	76.0.
Spencer.....	62.3.
Tyrone	62.1.
Vergennes	71.7.
Walker	71.7.
Wyoming.....	76.5.
Grand Rapids	66.6.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
7th "	
8th "	
9th "	
10th "	
11th "	
12th "	

Keweenaw County.

Allouez	*
Eagle Harbor	
Grant	
Houghton	
Sherman	

* No figures furnished by the tax commission.

Lake County.

Chase	59.6.
Cherry Valley.....	48.5.
Dover.....	67.8.
Ellsworth.....	37.2.
Eden.....	100.0.
Elk	75.7.
Lake	71.2.
Newkirk.....	61.1.
Pinora	61.6.
Pleasant Plains.....	97.0.
Webber	85.0.

Lapeer County.

Township or ward.	Tax commission percentages.
Almont	81.7.
Arcadia	86.2.
Attica	75.9.
Burlington.....	89.5.
Burnside	83.1.
Deerfield	69.6.
Dryden.....	90.3.
Elba	75.0.
Goodland	82.7.
Hadley	89.9.
Imlay	78.2.
Lapeer	86.5.
Marathon.....	88.5.
Mayfield.....	65.7.
Metamora	78.9.
North Branch	78.8.
Oregon.....	71.0.
Rich.....	84.3.
Lapeer City.....	80.6.
1st ward,	
2nd "	
3rd "	
4th "	

Leelanau County.*

Bingham.....	74.8.
Centerville.....	64.1.
Cleveland.....	67.8.
Empire	64.2.
Elmwood.....	68.8.
Glen Arbor.	78.2.
Kasson.....	67.6.
Leelanau	67.3.
Leland.....	72.1.
Sutton's Bay.....	70.4.
Solon.....	83.1.

* See note above Alcona county.

Lenawee County.

Adrian City.....	56.5.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
Adrian.....	69.6.

Township or ward.	Tax commission percentages.
Blissfield	64.2.
Cambridge.....	82.5.
Clinton.....	74.9.
Deerfield.....	72.4.
Dover.....	84.8.
Fairfield.....	72.5.
Franklin.....	86.3.
Hudson.....	89.4.
Hudson City.....	76.6.
Macon.....	73.3.
Madison.....	86.8.
Medina.....	86.3.
Ogden.....	68.3.
Palmyra.....	73.4.
Raisin.....	82.2.
Ridgeway.....	70.8.
Riga.....	60.6.
Rolland.....	75.4.
Rome.....	85.7.
Seneca.....	79.2.
Tecumseh.....	74.3.
Woodstock.....	69.7.

Livingston County.

Brighton.....	81.8.
Cohoctah.....	80.9.
Conway.....	81.2.
Deerfield.....	88.6.
Genoa.....	80.4.
Greek Oak.....	92.6.
Hamburg.....	91.3.
Handy.....	78.3.
Hartland.....	90.1.
Howell.....	75.9.
Iosco.....	85.9.
Marion.....	82.1.
Osceola.....	86.9.
Putnam.....	81.3.
Tyrone.....	79.9.
Unadilla.....	80.9.
In corporate limits, Village of Howell, Howell township.	

Luce County.

Columbus.....	65.0.
Lakefield.....	75.0.
McMillan.....	75.0.
Pentland.....	60.0.

Township or ward.	Tax commission percentages.
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Mackinac County.

Brevort.....	94.1.
Bois Blanc	50.0.
Cedar	94.4.
Garfield	80.0.
Hendricks	30.0.
Marquette.....	50.0.
Moran.....	80.0.
Newton.....	70.0.
Portage	66.7.
Sherwood	84.0.
St. Ignace.....	63.0.
Mackinac Island City.....	90.0.
St. Ignace City.....	101.1.

Macomb County.*

Armada.....	71.6.
Bruce.....	72.9.
Clinton	42.8.
Chesterfield	60.3.
Erin.....	61.6.
Harrison.....	50.0.
Lenox	62.2.
Macomb.....	69.3.
Ray	71.8.
Richmond	62.1.
Shelby	80.5.
Sterling	69.3.
Warren.....	66.5.
Washington.....	70.8.
City of Mount Clemens.....	52.4.
1st ward,	
2nd "	
3rd "	

* See note above Alcona county.

Manistee County.

Arcadia	89.5.
Bear Lake.....	59.1.
Brown.....	65.4.
Cleon.....	80.9.
Filer.....	65.6.
Manistee.....	95.1.
Maple Grove.....	73.7.
Marilla	69.9.
Onkama.....	50.5.
Pleasanton	75.8.

Township or ward.	Tax commission percentages.
Springdale	45.8.
Stronach	99.9.
City of Manistee	67.7.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
7th "	

Marquette County.*

Marquette City	†
Ishpeming City	
Negaunee City	
Champion	
Chocolay	
Ely	
Forsyth	
Humboldt	
Ishpeming	
Michigamme	
Marquette	
Negaunee	
Republic	
Richmond	
Sands	
Skandia	
Turin	
Tilden	
West Branch	

*See note above Alcona county.

†No percentages furnished by tax commission.

Mason County.

Amber	92.2.
Branch	75.4.
Custer	73.1.
Eden	84.3.
Freesoil	84.6.
Grant	93.6.
Hamlin	78.9.
Pere Marquette	77.9.
Riverton	73.4.
Sheridan	63.6.
Sherman	74.6.
Summit	85.7.
Victory	86.7.
City of Ludington	67.4.

Mecosta County.

Township or ward.	Tax commission percentages.
Ætna.....	52.6.
Austin	59.8.
Big Rapids.....	70.3.
Chippewa.....	59.5.
Colfax.....	55.6.
Deerfield	53.3.
Fork	60.7.
Grant.....	62.7.
Green	68.1.
Hinton	66.6.
Martiny	66.2.
Mecosta.....	52.0.
Millbrook	55.1.
Morton	62.3.
Sheridan.....	62.6.
Wheatland.....	53.5.
City of Big Rapids.....	80.8.

Menominee County.

Cedarville.....	61.8.
Holmes	50.9.
Ingallston	57.8.
Menominee	66.0.
Millen.....	77.6.
Meyer	79.6.
Nadeau.....	47.6.
Stephenson.....	56.5.
Spalding.....	47.8.
Menominee	55.2.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
7th "	

Midland County.

Edenville	59.6.
Geneva	62.3.
Greendale.....	51.2.
Homer	59.8.
Hope	61.3.
Ingersoll.....	65.3.
Jasper	53.5.
Jerome	49.6.
Larkin	58.4.
Lee	61.5.

Township or ward.	Tax commission percentages.
Lincoln.....	53.2.
Midland	61.6.
Mt. Haley.....	52.1.
Mills	39.1.
Porter	65.2.
Warren.....	85.2.
City of Midland.....	62.6.
1st ward,	
2nd "	
3rd "	
4th "	

* Missaukee County.

Etna.....	72.0.
Bloomfield	60.7.
Butterfield	67.1.
Caldwell	66.4.
Clam Union.....	72.8.
Forest	70.2.
Lake	59.3.
Norwich	69.5.
Pioneer	69.1.
Reeder	58.3.
Richland	75.3.
Riverside	77.8.
West Branch.....	53.2.

* See note above Alcona county.

Monroe County.*

Ash	88.2.
Berlin	81.3.
Bedford.....	71.3.
Dundee.....	73.1.
Erie.....	86.1.
Exeter.....	75.7.
Frenchtown	83.1.
Ida	72.9.
La Salle.....	74.9.
London.....	85.4.
Milan.....	83.9.
Monroetown	74.7.
Raisinville	91.5.
Summerfield	63.3.
Whiteford.....	66.8.
Monroe City.....	84.1.
1st ward,	
2nd "	
3rd "	
4th "	

* See note above Alcona county.

Montcalm County.

Township or ward.	Tax commission percentages.
Belvidere	37.9.
Bloomer.....	70.3.
Bushnell.....	71.2.
Cato.....	47.7.
Crystal.....	62.5.
Day.....	71.9.
Douglass	49.2.
Eureka.....	65.6.
Evergreen	82.1.
Fairplain.....	56.2.
Ferris	52.6.
Home.....	59.4.
Maple Valley.....	44.9.
Montcalm.....	65.1.
Pierson	53.4.
Pine	54.1.
Reynolds	37.4.
Richland	58.1.
Sidney	44.0.
Winfield.....	52.3.
Greenville	68.1.
1st ward,	
2nd "	
3rd "	
Stanton	80.3.
1st ward,	
2nd "	
3rd "	

Montmorency County.

Albert.....	44.6.
Briley	46.4.
Hillman.....	79.5.
Montmorency	56.0.
Rust	88.7.
Vienna	48.6.

Muskegon County.

Blue Lake	90.2.
Casnovia.....	88.5.
Cedar Creek.....	79.5.
Dalton	64.4.
Egelston	81.6.
Fruitport	42.1.
Fruitland	48.8.
Holton	73.3.
Laketon	57.2.

Township or ward.	Tax commission percentages.
Montague.....	63.5.
Moorland	51.6.
Muskegon	46.1.
Norton.....	*49.0.
Ravenna.....	63.3.
Sullivan.....	57.4.
Whitehall	70.4.
White River.....	47.5.
City of Muskegon.....	83.9.
City of North Muskegon.....	70.6.

* See report of tax commission.

Newaygo County.

Ashaland.....	95.9.
Barton	77.2.
Beaver.....	64.6.
Big Prairie.....	66.0.
Bridgeton.....	92.0.
Brooks	81.9.
Croton.....	64.6.
Dayton	68.7.
Denver	77.9.
Eusley	62.0.
Everett	69.7.
Garfield	69.5.
Goodwell	60.4.
Grant	62.7.
Home	73.1.
Lincoln.....	75.4.
Monroe.....	79.9.
Norwich	78.6.
Sheridan.....	62.6.
Sherman.....	75.2.
Troy	79.8.
Wilcox	79.1.

Oakland County.

Addison	74.1.
Avon.....	76.7.
Bloomfield.....	74.1.
Brandon.....	76.2.
Commerce	84.7.
Farmington	84.4.
Groveland	82.0.
Highland.....	88.3.
Holly	78.0.
Independence	81.7.

Township or ward.	Tax commission percentages.
Lyon.....	88.6.
Milford...	83.1.
Novi.....	88.5.
Oakland.....	86.6.
Orion.....	71.5.
Oxford.....	70.2.
Pontiac.....	74.1.
Pontiac City.....	73.9.
Rose.....	78.6.
Royal Oak.....	67.5.
Southfield.....	82.0.
Springfield.....	89.7.
Troy.....	75.2.
Waterford.....	85.1.
West Bloomfield.....	55.1.
White Lake.....	75.5.

Oceana County.

Pentwater.....	79.5.
Weare.....	96.7.
Crystal.....	87.3.
Colfax.....	69.2.
Leavitt.....	94.3.
Elbridge.....	98.0.
Hart.....	83.1.
Golden.....	86.3.
Benona.....	69.7.
Shelby.....	74.4.
Ferry.....	69.5.
Newfield.....	73.2.
Greenwood.....	80.2.
Otto.....	79.8.
Grant.....	60.1.
Claybanks.....	72.9.

Ogemaw County.

Churchill.....	68.5.
Cumming.....	63.4.
Edwards.....	79.4.
Foster.....	80.7.
Goodar.....	81.3.
Hill.....	73.7.
Horton.....	79.8.
Klacking.....	74.8.
Logan.....	83.5.
Mills.....	80.7.
Richland.....	89.0.
Rose.....	85.2.
West Branch.....	87.5.

Ontonagon County.

Township or ward.	Tax commission percentages.
	*
Bohemia.....	40.9.
Carp Lake.....	30.0.
Greenland.....	48.6.
Haight.....	41.5.
Interior.....	38.1.
Matchwood.....	44.4.
McMillan.....	34.2.
Ontonagon.....	42.4.
Rockland.....	56.2.

* These percentages do not include the assessed valuation of several mines. Assessors should inquire of tax commission.

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Osceola County.

Burdill.....	75.4.
Cedar.....	79.1.
Evart.....	51.3.
Hartwick.....	56.6.
Highland.....	51.6.
Hersey.....	66.3.
Le Roy.....	64.4.
Lincoln.....	71.5.
Marion.....	53.1.
Middle Branch.....	68.1.
Orient.....	57.4.
Osceola.....	69.4.
Richmond.....	69.6.
Rose Lake.....	56.1.
Sherman.....	62.5.
Sylvan.....	68.0.

Oscoda County.

Big Creek.....	83.7.
Comins.....	49.9.
Elmer.....	77.2.
Mentor.....	68.5.

Otsego County.

Bagley.....	61.0.
Charlton.....	69.9.
Chester.....	78.9.
Corwith.....	70.6.
Dover.....	75.0.
Elmira.....	80.5.
Hayes.....	42.3.
Livingston.....	68.5.
Otsego Lake.....	42.7.

Ottawa County.

Township or ward.	Tax commission percentages.
Allendale.....	71.0.
Blendon	93.7.
Chester	72.3.
Crockery.....	70.4.
Georgetown	87.4.
Grand Haven.....	73.0.
Holland	47.2.
Jamestown.....	82.2.
Olive.....	92.4.
Polkton	77.3.
Robinson	76.9.
Spring Lake.....	39.0.
Talmadge.....	78.4.
Wright.....	80.2.
Zeeland	88.7.
Grand Haven City.....	51.3.
Holland City.....	63.3.

Presque Isle County.

Allis	102.5.
Bearinger.....	63.2.
Belknap	94.7.
Bismarck	63.2.
Case.....	80.6.
Krakow	81.2.
Metz	87.5.
Moltke	99.3.
Ocqueoc	96.8.
Posen	84.1.
Presque Isle.....	63.2.
Rogers	97.5.

Roscommon County.

Denton	*
Gerrish.....	
Higgins.....	
Markey	
Nester	
Rishfield.....	
Roscommon.....	

* No percentages prepared by tax commission.

Saginaw County.

Albee.....	65.3.
Birch Run.....	54.6.
Blumfield.....	54.2.

Township or ward.	Tax commission percentages.
Brady	65.3.
Brant.....	70.5.
Bridgeport.....	63.8.
Buena Vista.....	56.0.
Carrollton.....	80.5.
Chapin.....	55.6.
Chesaning.....	72.6.
Frankenmuth.....	68.2.
Freemont	59.8.
James.....	63.3.
Jonesville	71.4.
Kochville.....	66.4.
Lakefield.....	73.9.
Maple Grove.....	72.8.
Marion.....	62.1.
Richland.....	49.2.
St. Charles	60.2.
Saginaw.....	74.0.
Swan Creek.....	56.6.
Spaulding	78.3.
Tittabawassee.....	69.2.
Thomastown.....	56.5.
Taymouth.....	58.7.
Zilwaukie.....	64.7.
City of Saginaw.....	85.6.

Sanilac County.

Argyle.....	81.1.
Austin.....	83.5.
Bridgehampton.....	78.3.
Buel.....	66.4.
Custer	57.6.
Delaware	62.1.
Elk	70.4.
Elmer.....	84.0.
Evergreen	83.7.
Flynn	79.2.
Forester	87.0.
Freemont	83.6.
Greenleaf.....	89.1.
Lamotte	89.5.
Lexington.....	70.8.
Maple Valley.....	66.1.
Marion	81.9.
Marlette	65.0.
Minden.....	81.1.
Moore.....	58.2.

Township or ward.	Tax commission percentages.
Sanilac	69.3.
Speaker	82.3.
Washington.....	56.0.
Watertown.....	58.9.
Wheatland.....	71.5.
Worth.....	88.1.

Schoolcraft County.

City of Manistique.....	48.0.
1st ward,	
2nd "	
3rd "	
4th "	
Manistique.....	48.8.
Hiawatha.....	38.7.
Harrison.....	29.9.
Doyle	43.1.
Inwood	36.2.
Thompson	46.9.
Germfask	22.8.
Seney	31.3.

Shiawassee County.

Antrim.....	63.4.
Bennington	78.3.
Burns	71.8.
Caledonia.....	65.2.
Fairfield.....	77.3.
Hazelton	94.2.
Middleburg	78.2.
New Haven.....	92.5.
Owosso	72.3.
Perry	60.6.
Rush.....	60.9.
Sciota	76.1.
Shiawassee.....	71.4.
Venice	79.5.
Vernon.....	64.4.
Woodhull.....	76.5.
Owosso City	93.3.
Corunna City.....	87.1.

St. Clair County.

Township or ward.	Tax commission percentages.
Berlin	60.2.
Brockway	71.8.
Burchville	67.0.
Casco	54.3.
Clay	38.5.
China	62.3.
Cottrellville	64.3.
Columbus	67.3.
Clyde	84.4.
East China	80.9.
Emmet	72.5.
Fort Gratiot	73.1.
Grant	71.5.
Greenwood	68.9.
Ira	42.5.
Kenockee	76.2.
Kimball	62.6.
Lynn	75.5.
Mussey	77.5.
Port Huron	45.2.
Riley	60.5.
St. Clair	44.4.
Wales	64.0.
478 City of Port Huron	50.6.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
7th "	
8th "	
9th "	
10th "	
City of St. Clair	70.3.
City of Marine City	68.9.

St. Joseph County.

Township or ward.	Tax commission percentages.
Burr Oak	60.2.
Colon	66.7.
Constantine	65.9.
Fabius	70.7.
Fawn River	58.3.
Florence	75.4.
Flowerfield	72.5.
Leonidas	79.5.
Lockport	75.0.
Mendon	81.4.
Mottville	86.1.
Nottawa	73.7.
Park	85.3.
Sherman	67.8.
Sturgis	74.8.
White Pigeon	86.5.
City of Sturgis	52.0.
City of Three Rivers	67.8.

Tuscola County.

Akron	74.9.
Arbela	77.7.
Almer	87.2.
Columbia	75.9.
Dayton	80.9.
Denmark	87.1.
Elkland	76.1.
Ellington	82.1.
Elmwood	81.3.
Fairgrove	79.1.
Freemont	75.1.
Gilford	81.9.
Indianfields	90.2.
Juniata	79.6.
Kingston	78.5.
Koylton	82.5.
Millington	86.3.
Novesta	86.4.
Tuscola	83.4.
Vassar	94.4.
Watertown	80.9.
Wells	60.5.
Wisner	70.7.

Van Buren County.

Township or ward.	Tax commission percentages.
Almena	80.9.
Arlington	80.4.
Antwerp	62.6.
Bangor	70.4.
Bloomingsdale	75.3.
Covert	74.3.
Columbia	64.5.
Decatur	81.0.
Geneva	73.6.
Hamilton	84.2.
Hartford	75.3.
Keeler	73.9.
Lawrence	85.7.
Porter	75.5.
Pine Grove	70.1.
Paw Paw	70.7.
South Haven	57.9.
Waverly	81.2.

Washtenaw County.*

Ann Arbor city	98.9.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	
6th "	
7th "	
Ann Arbor	95.0.
Augusta	81.7.
Bridgewater	92.6.
Dexter	84.2.
Freedom	86.4.
Lima	82.5.
Lodi	88.8.
Lyndon	78.9.
Manchester	91.6.
Northfield	94.9.
Pittsfield	92.7.
Salem	84.0.
Saline	92.9.
Scio	91.1.
Sharon	99.1.

Township or ward.	Tax commission percentages.
Superior	94.1.
Sylvan	89.1.
Webster	90.3.
York	98.7.
Ypsilanti	95.1.
Ypsilanti City	83.8.
1st ward,	
2nd "	
3rd "	
4th "	
5th "	

* See note above Alcona county.

Wayne County.

Brownstown.....	68.3.
Canton	75.5.
Dearborn	74.7.
Ecorse	76.4.
Gratiot	60.9.
Greenfield	72.5.
Grosse Pointe	53.5.
Hamtramck	60.5.
Huron.....	68.4.
Livonia.....	71.5.
Monguagon	93.2.
Nankin	66.2.
Northville	71.7.
Plymouth.....	74.8.
Redford	70.3.
Romulus.....	62.6.
Springwells	53.6.
Sumpter	77.3.
Taylor.....	55.7.
Van Buren	63.7.
City of Wyandotte.....	77.9.
1st ward,	
2nd "	
3rd "	
City of Detroit.....	101.3.

Wexford County.

Antioch	86.6.
Boon	84.6.
Cherry Grove.....	81.7.
Cedar Creek.....	81.2.
Clam Lake.....	61.8.

Township or ward.	Tax commission percentages.
Colfax	78.2.
Greenwood.....	74.4.
Hanover.....	60.4.
Haring.....	42.4.
Henderson	70.7.
Liberty.....	61.9.
Selma.....	48.7.
Slagle.....	82.7.
Springville.....	82.5.
South Branch.....	62.9.
Wexford.....	108.7.
City of Cadillac	86.0.

(Here follows tables marked pp. 481, 482, 483.)

Offered by complainant

TABULATION of the Assessed and Equalized Valuation of the Aggregate Real and Personal Property of the several Counties in Michigan, as made by the Boards of Supervisors at the June Sessions in 1901.

Counties.	Acres assessed.	Valuation as assessed.		Total valuation as assessed.	Valuation as equalized.		Total valuation as equalized.
		Real estate.	Personal property.		Real estate.	Personal property.	
Alcona.....	335,192.48	\$835,438	\$392,576	\$1,098,014	\$844,768	\$292,744	\$1,107,512
Alcona.....	570,642.50	2,165,677	511,725	2,677,402	2,030,677	611,725	2,642,402
Alcona.....	513,401	15,314,964	3,790,921	19,105,885	14,269,779	3,790,921	18,000,000
Alcona.....	313,362.19	3,252,728	1,624,733	4,877,461	2,975,267	1,024,733	4,000,000
Alcona.....	302,646	3,499,068	1,052,438	4,551,506	3,272,965	1,052,838	4,325,803
Alcona.....	223,713	1,512,127	386,583	1,898,710	1,507,449	298,551	1,806,000
Alcona.....	496,041	2,046,259	305,709	2,351,968	1,498,129	305,709	1,793,838
Alcona.....	391,960	8,765,945	2,131,029	10,896,974	8,767,448	2,131,029	10,918,471
Alcona.....	274,343.16	18,150,800	5,109,508	23,260,308	18,412,000	5,109,508	23,521,508
Alcona.....	182,269.32	2,218,195	4,067,461	6,285,656	2,206,818	4,067,461	6,274,279
Alcona.....	345,896	19,713,100	3,865,460	23,578,560	12,386,250	3,865,460	16,251,710
Alcona.....	315,461	12,096,260	8,306,058	20,402,318	22,133,610	8,306,058	30,439,668
Alcona.....	435,251	21,908,470	2,179,184	24,087,654	10,235,815	2,179,184	12,415,000
Alcona.....	309,135	10,363,930	784,243	11,148,173	8,511,584	784,243	9,295,827
Alcona.....	243,527.22	2,712,198	871,290	3,583,488	2,548,170	871,290	3,400,000
Alcona.....	415,119.35	2,869,150	2,439,496	5,308,646	2,697,132	2,439,496	10,035,627
Alcona.....	846,860.96	6,854,340	1,062,719	7,917,059	1,068,359	342,974	1,411,333
Alcona.....	334,025	1,239,743	3,066,115	4,305,858	1,185,680	3,066,115	17,211,805
Alcona.....	308,250	13,292,492	252,022	13,544,514	14,165,680	974,333	17,211,805
Alcona.....	294,921	746,711	2,443,415	3,190,126	4,537,673	2,443,415	6,977,086
Alcona.....	639,290.56	7,837,782	2,699,833	10,537,615	4,690,147	2,699,833	7,000,000
Alcona.....	472,835	1,337,782	3,871,509	5,209,291	1,138,401	3,871,509	15,000,000
Alcona.....	361,876	14,831,180	1,081,816	15,913,000	4,133,123	1,081,816	5,814,939
Alcona.....	290,463.66	6,124,123	6,151,495	12,275,618	4,862,331	6,151,495	24,543,870
Alcona.....	363,983	18,834,896	6,151,495	24,986,391	18,362,331	6,151,495	1,680,999
Alcona.....	321,034.19	1,443,745	261,819	1,705,564	1,428,160	261,819	1,680,999
Alcona.....	691,347.95	6,928,406	2,316,844	9,245,250	6,029,362	2,316,844	8,956,200
Alcona.....	984,012	7,068,306	2,119,472	9,187,778	6,790,578	2,119,472	7,900,000
Alcona.....	362,050	10,040,275	1,679,741	11,720,016	13,067,830	1,679,741	10,187,700
Alcona.....	875,710	14,029,490	3,769,570	17,799,060	13,067,830	3,769,570	16,429,400
Alcona.....	696,023	87,972,940	14,860,697	102,833,637	93,574,303	14,860,697	98,435,000
Alcona.....	523,063	18,435,005	1,834,981	20,269,986	9,189,415	1,834,981	11,004,394
Alcona.....	342,906.75	9,351,876	4,306,977	13,658,853	13,663,023	4,306,977	18,000,000
Alcona.....	355,283	14,137,350	3,841,158	17,978,508	13,465,381	3,841,158	17,966,539
Alcona.....	278,811	1,304,824	388,392	1,693,216	1,441,038	388,392	1,800,000
Alcona.....	746,258.24	3,094,102	693,402	3,787,504	3,914,536	693,402	4,568,000
Alcona.....	337,067.80	5,029,500	814,540	5,844,040	4,185,400	814,540	6,000,000
Alcona.....	437,146	21,920,447	6,850,894	28,771,341	23,140,100	6,850,894	30,000,000
Alcona.....	350,089	18,021,049	6,290,618	24,311,667	18,021,049	6,290,618	24,302,200
Alcona.....	359,027.48	2,413,297	2,891,906	5,305,203	2,383,500	2,891,906	2,862,000
Alcona.....	838,157.02	57,000,396	31,459,569	88,459,965	51,570,411	31,459,569	60,000,000

Keweenaw.....	3,531,404	202,195	3,733,599	2,800,280	202,155	3,062,804
Lake.....	10,941,072	148,215	11,089,287	11,089,287	148,215	1,177,287
Lapeer.....	10,941,072	2,353,266	12,894,338	11,400,734	2,353,266	13,734,000
Leelanau.....	1,500,455	6,030,398	2,133,851	1,506,434	6,030,398	2,170,080
Leonia.....	21,937,620	6,632,662	28,570,282	26,881,942	6,632,662	27,682,240
Lewistown.....	10,850,740	3,142,353	13,993,093	9,357,605	3,142,353	12,500,000
Luce.....	1,311,040	1,853,375	3,164,415	1,195,117	1,853,375	1,550,000
Mackinac.....	15,929,150	524,178	16,453,328	14,987,665	524,178	2,477,553
Macomb.....	5,474,577	3,709,350	9,183,927	5,480,577	3,709,350	20,036,000
Manistee.....	17,310,350	3,709,350	21,019,700	11,183,810	3,709,350	11,183,810
Marquette.....	4,920,626	6,996,215	11,916,841	11,870,785	6,996,215	18,718,000
Mecosta.....	3,119,673	1,438,243	4,557,916	6,026,528	1,438,243	3,704,750
Menominee.....	6,013,753	3,678,713	9,692,466	3,168,168	3,678,713	6,464,789
Midland.....	1,626,857	456,245	2,083,102	6,433,673	456,245	3,704,750
Milwaukee.....	324,578,11	517,857	325,095,97	2,416,414	517,857	10,112,386
Monroe.....	348,493,79	1,700,612	350,194,40	13,431,815	1,700,612	3,100,000
Montcalm.....	770,247,40	6,680,350	776,927,75	6,290,388	6,680,350	2,147,298
Montmorency.....	362,970,12	3,112,392	366,082,51	1,014,275	3,112,392	16,948,000
Muskegon.....	436,712	7,963,255	8,400,000	7,39,380	7,963,255	7,000,000
Newaygo.....	357,183,57	4,313,311	361,496,88	8,034,254	4,313,311	964,900
Oakland.....	22,560,676	7,015,700	29,576,376	3,353,000	7,015,700	12,158,646
Ogemaw.....	4,218,225	865,893	5,084,118	22,480,575	865,893	4,772,965
Ontonagon.....	1,614,617	383,640	1,998,257	4,196,075	383,640	29,565,275
Osceola.....	3,262,340	530,279	3,792,619	1,578,380	530,279	5,081,968
Oscoda.....	3,262,752	367,044	3,629,796	3,174,340	367,044	1,962,000
Otsego.....	496,282	38,280	534,562	2,436,586	38,280	3,402,630
Ottawa.....	1,865,945	560,405	2,426,350	436,000	560,405	633,290
Presque Isle.....	13,259,745	4,069,894	17,329,639	1,645,945	4,069,894	2,406,410
Racine.....	330,311,98	4,73,307	335,045,29	12,641,116	4,73,307	16,700,000
Roscommon.....	256,683,25	47,304	256,730,55	2,225,246	47,304	2,706,553
Saginaw.....	348,840	386,424	735,264	345,940	386,424	735,264
Schell.....	23,264,310	10,791,500	34,055,810	24,372,156	10,791,500	35,163,656
Schoolcraft.....	9,313,165	1,562,427	10,875,592	9,428,665	1,562,427	10,951,022
Shiawassee.....	711,213,30	1,029,049	712,242,39	1,772,006	1,029,049	2,900,000
St. Clair.....	13,895,713	3,221,898	17,117,611	10,575,852	3,221,898	13,757,750
St. Joseph.....	17,392,138	4,782,000	22,066,038	14,780,190	4,782,000	23,563,000
Tecumseh.....	313,786,77	3,175,794	316,962,56	11,626,224	3,175,794	15,092,018
Van Buren.....	810,647	2,334,387	3,145,034	14,296,667	2,334,387	14,251,897
Washtenaw.....	382,960,00	2,383,797	385,343,79	12,017,510	2,383,797	13,065,000
Wayne.....	432,765	7,716,001	8,148,766	26,224,759	7,716,001	33,939,700
Wexford.....	356,931	80,004,815	80,861,746	178,725,985	80,004,815	298,740,500
Totals.....	34,149,861,33	\$1,017,071,643	\$1,398,632,601	\$923,878,583	\$311,907,442	\$1,255,896,025

From acreage statement made in 1866



Table showing the valuation of taxable property in the State of Michigan as equalized in 1901 by the State Board of Equalization with other information for comparison.

Counties.	Valuation as estimated by the State Board of Tax Commissioners in 1901.	Valuation as assessed by boards of supervisors in 1901.	Valuation as equalized in 1901 by State Board of Equalization.	Valuation as equalized in 1896 by State Board of Equalization.
Totals, -	\$1,702,471,041.	\$1,328,632,691.	\$1,578,100,000.	\$1,105,100,000
Alcona,	\$1,350,940.	\$1,098,014.	\$1,300,000.	\$350,000
Alger,	3,135,331.	2,677,402.	3,100,000.	2,000,000
Allegan,	22,679,356.	19,105,175.	21,000,000.	15,500,000
Alpena,	5,269,086.	4,787,461.	5,000,000.	4,000,000.
Antrim,	5,410,395.	4,552,833.	5,500,000.	3,250,000.
Arenac,	2,091,421.	1,810,678.	2,100,000.	1,250,000
Baraga,	4,569,997.	2,361,829.	2,700,000.	1,500,000
Berry,	14,414,957.	10,906,977.	15,000,000.	14,000,000
Bay,	26,077,673.	23,312,308.	32,000,000.	24,500,000
Benzie,	3,352,671.	2,787,616.	3,200,000.	1,750,000
Berrien,	36,022,128.	24,380,161.	30,000,000.	18,000,000
Branch,	20,721,424.	16,261,730.	19,500,000.	19,000,000
Calhoun,	39,267,985.	30,268,528.	37,000,000.	29,000,000
Cass,	16,860,523.	12,533,114.	15,500,000.	15,000,000
Charlevoix,	4,272,117.	3,496,441.	4,200,000.	3,000,000
Cheboygan,	4,839,110.	3,730,440.	4,500,000.	3,700,000
Chippewa,	12,622,958.	11,292,835.	12,500,000.	4,600,000
Clare,	2,536,354.	1,682,719.	2,200,000.	1,150,000
Clinton,	19,837,120.	16,302,979.	20,000,000.	18,000,000
Crawford,	1,527,210.	999,333.	1,200,000.	1,000,000
Delta,	12,269,056.	7,526,035.	9,400,000.	3,500,000
Dickinson,	12,461,483.	9,407,635.	11,200,000.	5,500,000
Eaton,	20,904,300.	18,702,686.	21,000,000.	19,000,000
Emmet,	8,221,557.	6,805,939.	8,000,000.	3,000,000
Genesee,	20,478,890.	24,986,391.	29,500,000.	24,000,000
Gladwin,	2,106,609.	1,705,564.	2,100,000.	1,500,000
Gogebic,	14,342,915.	9,240,254.	14,000,000.	14,000,000
Gr. Traverse,	10,259,376.	7,885,628.	9,500,000.	5,500,000
Gretiot,	15,896,023.	11,720,016.	15,500,000.	10,000,000
Hillsdale,	21,881,475.	17,780,060.	21,000,000.	21,000,000
Houghton,	180,107,562.	102,823,637.	140,000,000.	42,500,000
Huron,	13,475,318.	11,166,856.	13,400,000.	8,750,000
Ingham,	31,899,162.	22,762,032.	27,500,000.	21,000,000
Ionia,	22,280,679.	17,978,508.	21,500,000.	18,500,000
Iosco,	1,923,177.	1,633,216.	1,900,000.	2,000,000
Iron,	6,944,057.	4,267,564.	6,000,000.	4,000,000
Isabella,	8,040,717.	5,844,090.	7,500,000.	5,750,000
Jackson,	37,838,736.	28,786,341.	36,000,000.	30,500,000
Kalamazoo,	34,305,210.	24,302,267.	30,000,000.	26,500,000
Kalamas,	3,689,934.	2,881,908.	3,500,000.	2,750,000



Counties.	Valuation as estimated by the State Board of Tax Commissioners in 1901.	Valuation as assessed by boards of supervisors in 1901.	Valuation as equalized in 1901 by State Board of Equalization.	Valuation as equalized in 1896 by State Board of Equalization.
Kent,	\$106,344,208.	\$78,635,847.	\$90,000,000.	\$52,500,000.
Keweenaw,	*4,000,000.	3,773,559.	4,000,000.	1,500,000.
Lake,	1,764,094.	1,100,187.	1,400,000.	750,000.
Lapeer,	15,330,296.	12,899,731.	14,500,000.	14,000,000.
Leelanau,	2,861,708.	2,193,821.	2,700,000.	1,250,000.
Lenawee,	36,810,087.	28,581,342.	34,000,000.	30,000,000.
Livingston,	16,270,270.	13,993,080.	16,000,000.	15,000,000.
Luce,	2,200,317.	1,674,923.	2,000,000.	1,500,000.
MacKinnac,	2,637,678.	2,077,553.	2,500,000.	2,000,000.
Macomb,	31,026,777.	20,997,530.	25,000,000.	18,500,000.
Manistee,	13,395,685.	11,183,810.	13,500,000.	9,000,000.
Marquette,	25,399,293.	24,166,574.	30,000,000.	18,000,000.
Mason,	8,010,189.	7,358,769.	7,500,000.	4,500,000.
Meecosta,	5,439,702.	3,755,655.	5,000,000.	4,500,000.
Menominee,	14,499,968.	9,692,386.	13,500,000.	7,000,000.
Midland,	5,507,021.	3,515,704.	4,500,000.	2,500,000.
Missaukee,	2,944,104.	2,146,414.	3,000,000.	2,500,000.
Monroe,	21,801,258.	16,948,000.	20,500,000.	16,000,000.
Montcalm,	13,097,029.	8,389,962.	13,000,000.	9,500,000.
Montmorency,	1,513,683.	1,014,275.	1,500,000.	600,000.
Muskegon,	14,380,824.	11,065,646.	14,500,000.	11,000,000.
Newsygo,	6,756,464.	5,133,306.	6,000,000.	4,250,000.
Oakland,	36,222,033.	29,566,275.	34,000,000.	30,000,000.
Oceana,	6,144,246.	5,104,118.	6,000,000.	5,000,000.
Ogemaw,	2,259,907.	1,898,257.	2,300,000.	1,500,000.
Ontonagon,	12,960,593.	3,212,619.	8,000,000.	750,000.
Oscoda,	6,089,387.	4,219,796.	5,500,000.	4,000,000.
Oscoda,	809,028.	533,562.	700,000.	500,000.
Otsego,	2,593,826.	2,426,410.	3,000,000.	2,000,000.
Ottawa,	23,489,633.	17,318,629.	21,500,000.	14,500,000.
Presque Isle,	2,613,998.	2,303,553.	3,000,000.	750,000.
Rosecommon,	*500,000.	396,424.	500,000.	500,000.
Saginaw,	41,997,094.	34,058,820.	42,000,000.	36,000,000.
St. Clair,	34,691,206.	22,085,038.	30,000,000.	21,000,000.
St. Joseph,	18,225,598.	14,284,518.	18,000,000.	17,500,000.
Sanilac,	14,413,847.	10,865,592.	14,000,000.	8,500,000.
Schoolcraft,	5,502,143.	2,800,055.	4,000,000.	3,000,000.
Shiawassee,	21,302,210.	17,107,611.	21,500,000.	16,750,000.
Tuscola,	16,983,804.	14,286,697.	17,500,000.	10,500,000.
Van Buren,	18,063,328.	13,249,797.	16,000,000.	14,500,000.
Washtenaw,	36,143,162.	33,939,760.	37,000,000.	31,000,000.
Wayne,	326,264,047.	290,222,099.	297,000,000.	205,000,000.
Wexford,	8,517,071.	5,527,946.	6,000,000.	4,500,000.

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484 *Portions of Exhibit "C," being the report of the board of State tax commissioners and State board of assessors for the years 1901 and 1902, addressed to the governor and dated December 15, 1902.*

Offered by complainant.

Defendant's counsel objects to the introduction of this exhibit and to any part or parts thereof and to any and all testimony based upon or explaining the same as immaterial irrelevant and incompetent.

485 Act No. 154 of the public acts of 1899, by which the board of State tax commissioners was created, defines their duties as follows:

SEC. 150.

1. To have and exercise general supervision over the supervisors and other assessing officers of this State, and to take such measures as will secure the enforcement of the provisions of this act, to the end that all the properties of this State liable to assessment for taxation shall be placed upon the assessment rolls, and assessed at their actual cash value.

2. To confer with and advise assessing officers as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations, and individuals failing to comply with the provisions of this act; to prefer charges to the governor against assessing and taxation officers who violate the law or fail in the performance of their duties in reference to assessment and taxation, and in the execution of these powers the said board may call upon the attorney general or any prosecuting attorney in the State to assist said board.

3. To receive complaints as to property liable to taxation that has not been assessed, or has been fraudulently or improperly assessed, and to investigate the same, and to take such proceedings as will correct the irregularity complained of, if found to exist.

4. To see that each county in the State be visited by at least one member of the board as often as once each year, to the end that all complaints concerning the law may be heard; that information concerning its workings may be collected; that all assessing and taxation officers comply with the law, and all violations thereof be punished, and that all proper suggestions as to amendments and changes may be made.

5. To require from any officer in this State, on forms prescribed by said board of State tax commissioners such annual or other reports as shall enable said board of State tax commissioners to ascertain the assessed valuations and equalized valuations of all property listed for taxation throughout the State under this act; the amount of taxes assessed, collected and returned delinquent, and such other matter as the board may require, to the end that it may have complete and statistical information as to the practical operation of this act.

6. To inquire into and ascertain the valuation of the properties of

corporations paying specific taxes under any of the laws of this State, and to ascertain the actual rate of taxation as based upon the valuation of said properties that is being paid by said corporations, and to this end said board shall require reports from, and make investigations, as to the properties of such corporations in the same manner and to the same extent as if said corporations were paying taxes under this act.

7. To make diligent investigation and inquiry concerning the revenue laws and systems of other States and countries, so far
436 as the same is made known by the published reports and statistics, and can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the legislature at each regular session thereof, such amendments, changes or modifications of our revenue laws as seem proper and necessary to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of public revenues.

8. To further report to the legislature at each regular session thereof, or at such other times as the legislature may direct, the whole amount of taxes collected in the State, for all purposes, classified as to State, county and township and municipal purposes, with the sources thereof; the amount lost; the cause of the loss; the proceedings of said board, and such other matters of information concerning the public revenues as it may deem of public interest.

9. To further report to the legislature at the beginning of the regular session, specifically, the true valuation of the properties of corporations paying specific taxes and the rate of taxation actually paid on said valuation and the true valuation of all other properties of the State, and the rate of taxation the same are paying, to the end that the legislature shall have the information necessary to rearrange the rate or system of taxation on said properties, so that all taxable properties of the State may be taxed uniformly.

10. To be present at each meeting of the State board of equalization and furnish such information as said board may require, and that may assist said board in the performance of the duties imposed upon it by law.

But for still better comprehension of the work put upon the commission one should study the whole act, which here and there confers further powers and duties, with the details necessary to be employed to carry same into effect and operation.

Advisory and Supervisory Work of Commission.

Under sub-divisions I and II of section 150, which provide for the supervision of assessing officers and the advisory capacity which the board shall sustain to them, the commission has previous to the time for making the assessment in the years 1901 and 1902, prepared and sent to each assessing officer in the State a circular letter of instruc-

tions, taking up each point in the law relative to assessments which seemed ambiguous, endeavoring to make the same clear and explicit. Instructions have also been sent to boards of review throughout the State, calling their attention in plain and unmistakable terms to their duties, and urging all to assist in bringing to a legal standard, namely, "cash value," the assessed valuations of all the properties of the State. Assessing officers have also received each year a transcript of the record of all undischarged mortgage credits owned by residents of their assessment district, as reported by the registers of deeds of the various counties. The properties of private corporations have likewise received considerable attention at the hands of the commission, and much valuable information concerning this class of property brought to their attention.

487 Public service corporations, such as electric railways, electric light, water-works and gas companies, whose physical properties have an increased value by reason of special privileges or franchises which they enjoy, have been the subject of investigation, the result of which disclosed these facts: First, that such properties had, in a majority of cases, been assessed much lower relatively than the average properties in the township or city where they are located. Second, that the majority of assessing officers were uninformed as to methods to be employed in determining their true, or "cash value." The information obtained has been furnished the supervisors and assessors who have generally made use of it in the preparation of their assessment rolls. Instruction has also been given as to the line of investigation to be pursued in the future for determining the valuation of such properties which will, we believe, be productive of much good.

An examination of the various probate records in the State disclosed the fact that a large amount of personal property, belonging to the estates of deceased persons was escaping taxation, either through the ignorance or inattention of assessing officers. In one county over \$2,225,000 of assessable personal property was found that had escaped the attention of the supervisor; in others, \$600,000, \$300,000, \$150,000, and \$1,500,000. In the first four cases those amounts were added to the assessment rolls by "special reviews," and in the fifth case the facts were discovered in time to notify the assessing officer before his roll was completed. A system has since been established by which we hope to be able to place information relative to these matters in the hands of the supervisors and assessors previous to the time of taking their assessments.

488 To sum up briefly, the three things mainly responsible for undervaluations and failure to discover personal property liable for taxation, are jealousy, timidity and favoritism. We believe that these evils can be overcome, at least to a great extent, by mandatory provisions of law requiring a sworn listing of personal property by the owner, and advisory, supervisory and corrective powers over assessing officers.

Much of the progress made is a result of the response of assessors and supervisors to our advice and instructions regarding the law and how it should be applied. There are many instances, however, in which we have been compelled to make use of the corrective power given us by the law, but this will be treated more fully in another part of this report.

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Page 16, EXHIBIT C.

We believe the meetings with boards of supervisors productive of much good. In most of them there was discussion of the laws relating to the assessment of property; the supervisors showed an active and intelligent interest in the subject and expressed a desire for a better knowledge of the law relating to their work, and manifested a willingness to be governed by it.

The law of assessment in many of its sections is somewhat ambiguous or is not easily understood by men not accustomed to its interpretations and application, and in these meetings different views were expressed and different interpretations were offered of sections of the law which are of general and even universal application, and of which, in order to secure a proper and uniform assessment, but one interpretation should obtain. The commissioners present at these meetings endeavored, and in many cases were able to solve these troublesome questions, and to assist assessing officers to a better knowledge of the law. We found supervisors in need of help to determine the proper manner of assessment of personal property of different kinds, particularly when and to whom it should be assessed, and of arriving at the value of some kinds of personal property. We found, for example, supervisors understanding that assessment of credits must be at their face instead of their actual value, and found also that too little advantage had been taken of the wise provision of the tax law permitting exemption of taxable property belonging to persons who, on account of poverty, are unable or should not be asked to pay taxes. We also found it necessary to speak of and explain the necessity of the use of blank statements to bring to light personal property subject to assessment and to explain their use.

It would be impossible to enumerate the questions raised and the matters discussed at these meetings; but with them all, we emphasized the importance of listing all property subject to tax-
 490 ation, and assessment of all at its cash value, endeavoring to point out that equal taxation and uniformity of assessment throughout the State can be accomplished in no other way; that while the old plan of assessing property at a percentage of its value prevails, and each supervisor uses his own judgment of the percentage to be applied in his district, there is danger of as many different percentages as supervisors in a county, and the property of no two counties will be assessed by the same standard of value. These meetings were at the same time profitable to the commissioners, as

they were brought in touch with the assessing officers and learned thereby the views of practical experienced men in the matter of assessment of property and in the execution of the laws of the State relating to the same.

Subdivision 3 of section 150, General Tax Law, clothes this board with a power not delegated to any other tax commission in the United States, namely, that of original jurisdiction over the acts of all assessing officers in the State, so that upon complaint made, and proper evidence produced, or from personal knowledge of conditions, the board or any member thereof may, upon proper notice, by review correct all improper or illegal assessments, either by adding to or deducting from the assessment of any person such an amount as will bring such assessment to true cash value, or by placing upon the roll any properties omitted therefrom, and we have frequently been called upon to exercise this authority during the past two years.

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Page 19.

Considerable time and attention has been devoted to the proper assessment of the property of street railway companies. In 1900, no very reliable data as to the mileage and financial standing of these corporations had been collected, and the commission was not in possession of information of sufficient accuracy to advise the local assessing officers as to the value of this class of property. Enough was known, however, of the lack of uniformity in its assessment of this property prevailing among assessing officers to warrant a careful research in order that accurate information might be had.

This work was commenced in October, 1901, and concluded about the 1st of April, 1902. It consisted of a thorough inspection of all physical property, such as road bed, right of way, rolling stock, power houses and sub-stations and car barns. At the same time a complete transcript of the records of the secretary of State, with reference to street railway property, was obtained. From these records, the names of some three-hundred companies, dating back to 1861, were obtained, and traced down to 1901. Of this number but forty-two were found actively engaged in operation or construction of lines in 1901, the remainder having disappeared through consolidations and other changes.

All franchises and rights received from the local authorities were carefully examined, special attention being paid to rates of fare, and duration of rights generally. The financial condition of the companies was also investigated along the line of earnings, stocks and bonds and similar objects.

Armed with this information, the commission held a great many meetings with the supervisors and assessing officers of the various counties in which street railway property was located and spent much time in laying before them the results of its investigation.

At these meetings, the method of assessing was carefully discussed and discrepancies in the past pointed out.

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Page 20.

Assessing officers having railway property to assess have usually been diligent in their efforts to learn its true value, but it is comparatively a new kind of property and to estimate the value of any part of it with even a reasonable accuracy requires a knowledge of the entire property and experience possessed by few assessing officers.

After these conferences with the assessing officers, embracing every district in the State in which street railway property was located, nothing further was done until the local officers had completed their rolls and the same had been passed on by the local boards of review. Then a report was required from the assessing officer of each one of these districts, in order that this board might know the exact valuations placed upon all the property. In many cases, the assessors, disregarding our suggestions, chose to take their own estimates of value and made no appreciable change from their old methods; but a large number profited by the information gained, and made creditable efforts to place the property on the rolls at or near cash value.

The commission found it necessary to review most of the properties and did so during the period elapsing from close of the rolls to the second Monday in October, 1902. The result of the combined efforts of the local officials and this board shows an increase for 1902 of \$7,000,000 over the assessment of 1901 in street railway property, of which \$6,000,000 was personal and in existence and use during the two years, besides about \$2,500,000. in entire new property.

Page 21.

Summer Resorts.

We found it necessary in the last two years to hold several reviews of the property of summer resort associations, and of property of the same kind belonging to individuals. There is a large amount of property in this State favorably situated for and used as summer resorts; many residents of Michigan own such property and use and occupy the same during summer months, and thousands of residents of other States are interested in resort associations or own the property themselves and occupy it for a few months of the year.

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493 We made careful examinations in several localities having this kind of property, and made unusual effort to find true values, with the result that we placed upon the assessment rolls of these localities additional assessments to the amount of almost \$2,000,000.

There is a large amount of resort property in the State of which we have been able to make no examination, but we have reason to believe that much of it is underassessed, and, as far as possible we propose to give it attention during the coming year to see that it no longer evades reasonable assessment.

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Page 22, EXHIBIT C.

General Reviews.

In September, 1901, a review was held by Commissioners Dust and McLaughlin on the rolls of the city of Holland, where the board of review had disregarded the judgment of the supervisors to the extent of making an arbitrary reduction of twenty per cent. of the assessment of nearly all the property of the city. After a thorough examination of the property by and under the direction of these commissioners, the rolls were practically restored to the condition in which the supervisors had presented them to the board of review. This review, and one of the cities of St. Ignace and Mackinac Island in September, 1900, by ex-Commissioner Oakman, were the only general reviews held previous to the year 1902, the time of the commission having been fully occupied in special reviews where properties of great value were omitted from the roll or grossly undervalued or where it seemed advisable on account of the character, extent or value of property involved, to consider it carefully and establish a standard for the future guidance of assessing officers.

494 During the year 1902, however, general reviews have been held in some portions or all of the following counties,—Bay, Charlevoix, Jackson, Kalamazoo, Kent, Mackinac, Macomb, Saginaw and St. Clair. In May of the present year the common council of the city of Port Huron passed a resolution requesting the commission to review the assessment rolls of that city. A preliminary investigation was made, which developed the fact that the only way to correct the irregularities and illegal assessments was by a re-assessment of the entire property of the city, and an order for a general review was accordingly made, and every description of real estate in the city inspected, valued and re-assessed. The personal property of the city also received thorough investigation and re-assessment. This resulted in an increased valuation of real estate to the amount of \$3,183,617, and in personal \$851,020, or a total increase of \$4,034,637.

In what spirit this work was received can perhaps best be illustrated by two extracts from one of the leading daily papers of the city. The first one appeared while the re-assessment was being made, and is as follows:

“Of course the tax commission will raise Port Huron. They have to make a showing to hold their job.” “While they are personally good fellows, few will give them the old greeting of ‘Sorry to part, happy to meet again.’” “It is exasperating to men imbued

with American ideas to be hauled before a quartette of strangers in the court house, and then have their secret business affairs corkscrewed out of them in a rigorous cross-examination. In so far as Port Huron is concerned the people would gladly send this tax law and the commission which is making so drastic an application of its provisions into a reconcentrado camp for a few years."

About three weeks after the review had been finished, and the city taxes extended, and turned over to the treasurer for collection, the same paper said editorily:

"The work of the State tax commission has been before the people at Port Huron long enough for sentiment to crystallize, and there is no gain-saying the fact that their finding is daily becoming more popular. After all it is surprising when you consider the difficulty under which the commission labored, the short time in which they had to do their work that so few just grievances can be found. The general public does not seem to be much disturbed by the lamentations of a few rich men and a few wealthy estates which were tossed in the air; and no one believes that any of these are too high, and some are heard to urge that they ought to go even higher to make up for the many years in which they escaped their fair share of taxes. The hard fact which interests the people is that some 20 per cent. or less of the community will have to pay more taxes, and these are those who are personally able to pay, while the vast majority of property owners, wage earners—those who own their own little \$800 or \$1,000 or \$1,200 homes—will have less taxes to pay than before. The people have about reached the conclusion that the tax commission plays no favorites. The assessment on the whole is equitable, and a decided improvement upon the old method which for some unaccountable reason let the big fish escape while the small fish were caught and kept wriggling in the meshes of the net."

A thorough and systematic research into the question of real estate values and assessments in different counties has been in progress under the direction of the commission for over a year, and much time has also been devoted to the matter of personal property in the same counties. A comparison of the information obtained with assessments of 1902 resulted in general reviews being held in the counties of Bay, Jackson, Kalamazoo, Macomb and in the county of Saginaw, except the city of Saginaw; the county of Kent, except the city of Grand Rapids, in which a special review was afterwards held; the city of Mackinac Island and in St. Clair county, besides the city of Port Huron already referred to, in the townships of Clay, Columbus, Cottrellville, Kimball and the city of St. Clair; and the townships of Charlevoix, Evangeline Chandler, Norwood and Melrose in the county of Charlevoix. The

increase in real and personal assessment of such counties and districts, is shown by counties in the table below :

	Increase in real estate.	Increase in personal.	Total increase.
Bay.....	\$1,368,640	\$550,250	\$1,918,890
Charlevoix.....	483,380	40,020	523,400
Jackson.....	4,695,235	569,667	5,264,902
Kalamazoo.....	1,876,365	1,724,734	3,601,099
Kent.....	2,622,260	852,727	3,474,997
Mackinac.....	189,510	157,525	347,035
Macomb.....	2,087,685	595,660	2,683,345
Saginaw.....	1,975,420	70,300	2,045,720
St. Clair.....	4,297,427	1,675,000	5,972,427
Total.....	\$19,595,922	\$6,235,883	\$25,831,815

Special reviews were held in the counties of Alger, Allegan, Calhoun, Huron, Houghton, Marquette, Lenawee, Oakland, Ottawa, Washtenaw, and Wayne, and in the city of Grand Rapids, and an aggregate of \$6,192,315 added to the rolls reviewed, making a total increase of \$32,024,130 by means of general and special reviews for the year 1902. Of the amount added by special reviews, over \$5,000,000 was personal property.

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497 In many localities we have helped supervisors to learn the quantity and value of timber, mills and lumber, and in several of our reviews in the past two years assessments of this kind of property have been considered. By this work of supervisors and by our work in reviews, large sums have been added to the rolls and we are preparing for the same line of work next year.

We believe this amount is still many millions below the value of real estate and personal property of the State; but it is so much greater and so much nearer the true value of assessable property of the State than ever reached before that the State is to be congratulated.

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The definition of cash value in this State is so broad that it necessarily includes every element of value, and the conception of the valuation of railroad property that does not include its whole meaning must be incomplete. It is, therefore, the opinion of this board that no one plan may be arbitrarily applied, but that each individual property should be subjected to an examination covering every possible phase of the question.

In August, 1900, Mortimer E. Cooley, professor of mechanical engineering at the University of Michigan, was employed by this board to appraise the physical property of railroad, telegraph, telephone, plank-road and river improvement companies, and the re-

sults of this work were shown in the last annual report of the commission. At the same time Henry C. Adams, professor of political science at the University of Michigan, undertook the examination of the financial operations of the railroad companies of Michigan, and the results of his work, with those of Professor Cooley, were finally completed in May, 1901, and compiled. This compilation is now known as the Michigan railroad appraisal. Ex-Commissioners Robert Oakman and Milo D. Campbell also made

498 respective examinations along the line of net earnings and the market value of railroad securities. Commissioner Freeman of the present board, however, held the opinion, as above stated, that no one plan of valuation should be rigidly applied, but that all plans should be considered in arriving at value.

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It is important to know from the physical stand-point what it will cost to reproduce a given property, and this figure could but rarely be found in the books of any railroad company that has operated for a period of years. It is not presumed that the cost and present value of the physical property in any given case are exact, but they sum up what may be called the first fundamental element of value and establish a definite starting point from which to work. A railroad property may be worth more or less than its physical value, but how much more or how much less will be largely dependent upon the amount invested taken in connection with the earning power and other governing principles.

The Michigan railroad appraisal, conducted by Prof. M. E. Cooley and a corps of some seventy-five engineers, occupied the period from about the first of September, 1900, to the 30th of May, 1901, not all of the force being engaged upon the work, however, during the entire period. The plan that he evolved for the accomplishment of his purpose was first a division of the forces into two parts, namely, field men, and office men. The latter were sent to the various railroad offices in small groups and there gathered all data that was available regarding the property of each company.

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498½ The investigations pursued by Prof. Adams, as before stated covered the economic side of the question of railroad valuation, and were designed to supplement the physical values found by Prof. Cooley. The results of his work have also been collected in book form and filed in the office of the board.

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The results obtained by Ex-Commissioner Robert Oakman in his capitalization of the net earnings of railroad property are shown in the last report of this commission and from another part of the investigation carried on during the progress of the Michigan railroad appraisal. Ex-Commissioner Campbell pursued the study of the

stocks and bonds of the companies, and his results are also shown in the report of this board for 1900.

The dates of incorporation of the various companies with correct corporate titles were obtained from the office of the secretary of state, and much general information bearing upon the history of the companies was received from the office of the railroad commissioner. Reports of Michigan railroad companies to the Interstate Commerce Commission were obtained and the records from thirty different States of the Union with regard to the valuation and assessment of railroad property consulted.

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Page 69, EXHIBIT C.

To carry these views to effect, the following certificate was attached to the assessment roll of the State board of assessors:

"The undersigned, the State board of assessors in and for the State of Michigan, acting under and pursuant to the provisions of act number 173 of the public acts of the State of Michigan for the year A. D. 1901, do hereby certify that the assessment roll, to which this is attached, is the assessment roll made pursuant to the provisions of said public act.

"And do further certify that said board has ascertained and determined the average rate of taxation for the year one thousand and nine hundred and two, levied upon the other property of the State, other than by said act, upon which ad valorem taxes are assessed for State, county, township, school, municipal and other purposes for the present year, to be thirteen and sixty-eight thousand nine hundred and five one-hundred thousandths dollars, (\$13.68905) per thousand dollars of assessable valuation.

"And do further certify that the method by which said board ascertained and determined said average rate was by taking the whole amount of taxes levied upon the property of the State assessed under existing laws, other than by said act, which amount the said board ascertained from the records of taxation of the State and the several counties, townships, school districts and municipalities for the current year for State, county, township, school and municipal purposes, to be the sum of twenty-three million four hundred and seventy-six thousand seven hundred and thirty-three and fifty-five one-hundredths dollars, (\$23,476,733.55), and dividing the same by the sum of one billion seven hundred and fifteen million dollars (\$1,715,000,000), which said sum, according to the information and knowledge of this board is the total true cash value of the property upon which said ad valorem taxes were assessed for the current year for said State, county, township, school, and municipal purposes. And that in obtaining said cash value, said board considered reports

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Page 70, EXHIBIT C.

received from the various assessing officers of the State, the total valuation of said properties as assessed by assessing officers and other

information obtained by said board bearing upon the cash value of the properties so assessable.

"In witness whereof the said State board of assessors hath signed this certificate at the State capitol in the city of Lansing State of Michigan, this twelfth day of December A. D. 1902.

"AMARIAH F. FREEMAN,

"MANVILLE JENKS,

"WILLIAM T. DUST,

"JAMES C. McLAUGHLIN,

"IRA T. SAYRE,

"Members of the State Board of Assessors
in and for the State of Michigan."

* * * * *

501 We have found in our investigations, where special reviews have been held, that corporate interests control the elections of the assessing officer and board of review for its locality; that in many cases such officers were in the direct employ of the corporation and that the per cent. of assessment to actual value has ranged from as low as seven per cent. up to twenty-five per cent. and thirty per cent. We believe we are justified in saying that such conditions are very rare in the State at the present time, and while we are endeavoring to avoid imposing excessive burdens upon any interest, whether corporate or individual, we have considered it our duty to bring all such properties to a relatively equal valuation with other property in the township, county or city, where such corporate interests might be located.

Extract from the paper read by Commissioner Freeman before the Michigan State Grange, December 9th, 1902, printed with the report of the board of State tax commissioners and State board of assessors as part of Exhibit "C."

Page 101, EXHIBIT C.

When the tax commission was created the taxable property of the State as assessed and reviewed was \$968,189,087. The next year, 1900, under the supervision of the commission for the first time, it was \$1,317,450,028, an increase over the previous year of \$349,260,941. In 1901, it was \$1,335,109,918, an increase over 1900 of \$17,659,890. In 1902, it is \$1,418,237,058, and increase over 1901 of \$83,010,236, a total increase of \$450,047,971. Of the total assessment for the year 1899, \$142,330,376 was personal. Of 1900, \$310,997,015 was personal, an increase of \$168,666,639. In 1901 the personal assessment increased \$4,144,070, and in 1902, \$16,279,646, or a total increase of personal property of \$189,090,351 in the three annual assessments occurring under the supervision of the commission,—property that never before appeared in these amounts upon the rolls of the State. For the previous thirteen years the increase in personal was only \$3,042,858.

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The fact that the assessment increase for 1901 was less than 1902 emphasizes the force which the commission has exercised over these assessments when in full operation. You will remember in the winter and spring of 1901 it was practically disorganized at this very important season of the year—just before the assessment period. When reorganized, it had but a short time to prepare for the approaching assessments. Besides, that other important if not paramount duty was upon it to prepare for the State equalization and know the worth of this State and each county by the month of August following, to the extent its time was taken, and these other duties and work relaxed to no little degree and the assessments showed it. However it must not be expected that it can keep up these great increases in the future. Diminution in this respect will begin the coming year, although a great field of endeavor seems still open for work.

And need I cite more proof than the omission of these vast sums from the rolls to prove that the assessments theretofore had been grievously wrong and that some supervisory force or power was and is required to adjust such appalling disregard of law and duty? And the natural growth of the State necessitates a continuation of this corrective force.

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EXHIBIT C, Page 114.

Statistical Tables.

The following tables, numbers 1 and 2, are worth the careful study of every person who would understand present and past conditions relative to the assessment of property in this State. These tables are made upon the same plan. Number 1 relating to real and number 2 to personal property.

Table No. 1 shows that the real estate of the State was assessed in 1886 at \$713,120,709 and in 1899 at \$825,858,711, an apparent increase of \$112,738,002 in 13 years. Without explanation this might be taken as a natural increase throughout the State, but further examination shows that it is not so. During the period mentioned the assessed valuation of the real estate of the county of Wayne increased \$84,194,940, and in the county of Houghton, the increase amounted to \$43,959,959, a total increase in these two counties of \$128,154,899 or \$15,516,897 more than the net increase in the whole State.

There was also an increase in 28 other counties amounting to \$41,580,415, making an aggregate increase of \$169,735,314. But in 53 counties, there was a decrease of \$56,997,312, leaving the net increase \$112,738,002, as above stated.

Passing to table No. 2, we find the same conditions existing in the assessment of personal property. The assessed valuation of this class of property in 1886 was \$139,458,937 and in 1899, \$142,330,376, an increase of only \$2,871,419. But in Wayne county alone, the increase

had been \$13,518,635 leaving a net loss of personal property assessed in the balance of the State of \$10,647,216.

Only 24 counties showed a greater assessment of personal in 1899 than in 1886 and 59 counties showed decreased assessment.

This was one of the conditions that confronted the tax commission when it was created, a falling off in the assessed valuation of both real and personal property in nearly every county notwithstanding the great increase in created and discovered wealth. The result of the work of this commission is shown in the second and third columns of each table. The real estate table shows that the assessed valuation has been increased \$260,957,616 over what it was in 1899, or nearly 24 per cent. increase in three years. It was the common belief that personal property was not being assessed at as high a percentage of its actual value as real property and that much personal was escaping altogether and the work of the commission has been devoted largely to correcting abuses in assessing this class of property. The result is most gratifying and is shown in table No. 2. It will be seen that the assessed valuation of personal property has increased from \$142,330,376 in 1899 to \$331,420,731 in 1902, an increase of \$189,090,355 or over 132 per cent. in three years, every county in the State showing a substantial increase over that in 1899.

While there has been a very large increase in the assessed valuation of both real and personal property since the creation of this commission, there are a great many counties and assessing districts that have not brought their assessments to the constitutional requirement. One of the most striking facts brought out by table No. 1 is that there were 17 counties in the State where the real estate was assessed at less value in 1902 than in 1886. In some of the northern counties the reduction in assessed valuation may be accounted for by the fact that they once contained large quantities of valuable pine which has since been removed leaving thousands of acres of "stump" lands of but little value. But we must seek further for a reason why some of the best counties in the southern part of the State are of less value to day than they were sixteen years ago. These conditions will be carefully investigated by this commission as soon as it is possible to reach them.

(Here follows Exhibit C, marked pages 505, 506, 507, 508, 509 & 510.)

DOUT(S) IS/ARE TOO LARGE TO BE FILMED



511 Complainant rests.

512 Offered by Defendant.

From Message Governor Pingree to Legislature of 1897.

Mr. BUTTERFIELD: We object to it as immaterial.

Mr. WYKES: It reads as follows: "I also recommended in order to the proper distribution of the public burdens, that all forms of wealth bear their just proportion of taxation. The policy of continuing the system of specific taxation of corporations as the sole resource of the State from such organizations, which originated when the State was new and which favored the promoters of needed works for small and scattered communities, has long been regarded with disfavor by the people of this State, who contend that the time has arrived when the well known inequalities of taxation should be adjusted and apportioned according to values.

There is nothing new or novel in this recommendation. In 1877, Governor Bagley took occasion in his address to the senate and house of representatives to emphasize the inequalities of specific taxation of corporate property, which he contended should be taxed locally, according to its value like other property.

In the same year Governor Croswell recommended improved methods for uniformity in levying taxes.

In 1887 Governor Luce recommended the equalization of taxation and in 1891 recommended for purposes of revenue a tax on bequests, on corporations, and an income tax.

In 1891 Governor Winans recommended equalizing taxation as between classes of property paying specific taxes and property under assessment, claiming that the assessed property pays double the tax paid by property upon which specific taxes are levied. He favored the local taxation of corporate property and doubted the policy of exempting any property from equal taxation.

513 It will thus be seen that the contention of the people against the system of solely specific taxation of corporations found expression at the capitol through several of the governors of the State, regardless of party, and as early as the seventies, and that the recommendations were in favor of taxing the property of the corporations as other property is taxed.

The question, therefore, is one no longer for debate but for energetic action, since it has been under consideration for twenty years.

While I do not believe that the system of specific taxation and the method of its distribution in support of the common schools should be disturbed, I recommend that steps be taken in the form of local or general taxation to make corporations bear their proper share of taxation."

From the Special Message, May 3, 1897, of Governor Pingree.

Mr. BUTTERFIELD: The same objection.

"In my first message, I referred in detail to the inequality and injustice of our present tax laws, so far as they effect quasi-public corporations. I called your attention to the demand which comes from many sources that corporate property should be taxed in the localities where it is situated, and recommended the creation of a department of taxes and assessments, to be composed of a board to be appointed by the governor and to include some, if not all, of the officials who now have supervision of the corporations to be affected. I suggested that this board should determine the exact value of all corporate property not now taxed locally and levy taxes thereon in the same proportion as private property now bears. * * *

I desire in this connection to say that I am not wedded to any particular system of taxation; any method that may be adopted to secure substantial equality will meet with my hearty approval.

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"Injustice of Specific Taxation.

The system of specific taxes applied to only a part of the property of the State cannot be continued for any length of time without producing great injustice. It will be readily seen that if all the property of the State was to be taxed specifically and a fixed rate determined upon in advance, it would be impossible to meet any of the emergencies which from time to time arise."

"There is but one rule consistent with honesty; that rule is to place all property upon the same footing; to make every one pay his share and to ask no one to pay more than his share. No one should ask the railroads to do more than they insist upon others doing. No one should be satisfied with anything less.

To increase the present tax by an insignificant amount would be merely trifling with the rights of the people. What is demanded is a substantial and *bona fide* effort to equalize taxes and make every one pay his share.

It is not my intention to recommend such a change in our present system as will injuriously affect the primary school fund to which specific taxes are now devoted. I trust you may be able to frame such a law as will impose upon railroads their just proportion of taxes and at the same time so distribute the amount raised that what is now paid to the primary school fund shall be increased rather than diminished."

"It is assumed by many that in advocating a change in the manner of assessing railroad property so as to tax it upon value instead of upon earnings, a new departure is proposed. This is untrue. From 1846 to 1893, the chartered roads without exception paid a specific tax upon the value of their property. Most of them do so still. From 1855 until 1871, the railroads organized under the gen-

515 eral laws of the State paid a specific tax upon their capital stock paid in. The system of taxing earnings began in 1871. It has worked disastrously for the State. It is objectionable in many ways. It opens a door for fraud against which the State has no protection. The State is practically compelled to accept the reports made to it by the railroad companies."

From the Proclamation, Governor Pingree, Convening Legislature in Special Session, March 22, 1898.

Mr. BUTTERFIELD: The same objection.

"By section six of article five of the constitution of the State of Michigan, it is provided that the governor shall take care that the laws be faithfully executed. By section seven of the same article, he is given the power to convene the legislature on extraordinary occasions.

By section eleven of article fourteen it is made the duty of the legislature to provide an uniform rule of taxation. By section twelve of the same article 'all assessments hereafter authorized shall be on property at its cash value.'

"These provisions have been a part of the fundamental law of the State since 1850. In violation of the spirit if not the letter of these provisions of the constitution, laws have been passed from time to time by which railroad companies, express companies, telegraph and telephone companies, now owning according to their sworn returns at least one-third of the property of this State, are required to pay only about one twenty-sixth of the tax levied for State, county and municipal purposes, leaving their just proportion of supporting our schools, asylums, and other public institutions and defraying the public expenses to fall upon the farmers, laborers, manufacturers and other property owners of the State.

Taxation has in many parts of the State become in the nature of confiscation, the amount levied being greater than the property taxed can be made to produce. * * *

In obedience to this duty, I hereby call the legislature of the State to meet in extraordinary session on Tuesday, the twenty-
516 second day of March, 1898, at noon of that day, to consider the question of the taxation of railroad companies, express companies, telegraph and telephone companies and such other matters as shall be submitted by special message."

From Message to Same Special Session, March, 1898.

This message, after quoting the proclamation, portions of which just read, continues:

"I have cited this proclamation in full because by section fifteen of article four of the constitution it is provided as to the legislature, that 'when convened in extra session, * * * they shall legis-

late on no other subjects than those expressly stated in the governor's proclamation or submitted to them by special message.'

The proclamation explains itself.

You are called upon to consider the question of taxing railroad companies, telephone companies, telegraph and express companies, and for no other purpose."

"The first essential of just taxation is that it shall be equal. To exempt one from taxation is to rob another. To provide a low rate for one and a high rate for another is despotic.

In my message of January 6, 1897, I called your attention to this subject and suggested that a board should be appointed which should determine the exact value of all corporate property not now taxed locally, and levy taxes thereon in the same proportion as private property now bears.

In my message of May 6, 1897, I again called your attention to the subject and expressed the hope that you might devise some means of equalizing in a measure at least, the burdens of taxation.

At that last session an act was passed increasing to some extent the tax now levied upon the earnings of railroad companies. 517 It was asserted that this act would bring into the treasury between two and three hundred thousand dollars. No taxes have yet been collected under it, but from the most reliable estimate that can now be made, it will yield only about \$100,000.

The Michigan Central and Lake Shore & Michigan Southern Companies, the two most wealthy and powerful companies of the State, claim that the bill does not apply to them, and they assert that because it was passed as an amendment to the general railroad law, they are protected from it by their special charters.

It is more than likely that the act will lead to a serious and prolonged litigation. If the contention of the companies should be sustained the result would be that as between railroads themselves, the additional taxes imposed by the act of the last session will fall upon the companies least able to bear it.

The system of taxing earnings is wrong in principle and unsatisfactory in results.

The railroad commissioner is required to file with the auditor general a computation of the amount of the tax which will become due from each of the railroad companies, which computation is to be based upon the report of the railroad company for the preceding year. This places the State absolutely at the mercy of the railroad company. It is compelled to take such reports as are made to it. The privilege of examining the books of the company is a useless one. The work would be almost endless, and even if well done, uncertain in its results.

'Where the railroads lie partly within and partly without this State, *prima facie* the gross income of the company, for the purpose of taxation, are the actual earnings of the road in Michigan.' Railroad law, section 106.

This can be only ascertained from the company itself; it may

credit such portion of its earnings as it sees fit, to its Michigan business. The State is compelled to trust entirely to the method of division adopted by the company.

518 I do not wish to charge fraud upon any of the companies doing business in this State. What I insist upon is that the State should never be at the mercy of any tax-payer, and that a system so open to frauds should never have been adopted, and having been adopted, should be abandoned at the earliest possible moment for one under which the ostensible property of the company can be fairly and honestly taxed.

Railroad Companies.

Railroad companies in this State are not bearing their just proportion of taxes. For the purpose of illustration, I desire to call your attention to the official figures of 1895, which are not materially different from those of the present year, and which, having been acted upon, are more certain for the purposes of computation.

The entire value of the assessed property of the State in 1895, as equalized by the boards of supervisors, was \$818,086,160.00. The board of review, acting under section 1239 of Howell's Statutes, fixed the average rate of taxes for State, county and municipal purposes, at .028.

The total cost of railroad property in the State, as returned by the companies and verified by the affidavits of their officers for the same year, was \$301,003,148.44.

If the companies had been assessed upon this sworn valuation their taxes for that year, at the average rate, would have amounted to \$8,428,088.15. The taxes which they paid were \$741,408.77. Their tax amounted to a little less than one-quarter of one per cent. upon their own sworn valuations. It was less than one-eleventh of the percentage paid by other taxpayers of the State.

The average rate of taxation, as fixed by the board of review for the year 1897, is reported to me as three per cent. The taxes
519 to be paid by the railroads do not materially differ from those collected in 1895.

The enormous inequality to which I called your attention in my special message of May 6, 1897, has increased instead of growing less.

The Situation.

We are confronted with this situation: The ordinary taxpayers of the State are bearing an annual burden of three per cent. upon the value of their property. The railroad companies are paying less than one-quarter of one per cent. upon their properties and less than one-eleventh of the proportion borne by others.

* * * * *

Injustice of Specific Taxes.

The system of specific taxes when applied to only a part of the property of the State, cannot be continued for any length of time without producing great injustice.

It will be readily seen that if all the property of the State were to be taxed specifically, and at a fixed rate determined upon in advance, it would be impossible to meet any of the emergencies which from time to time arise. If, for instance, in 1846 the legislature had fixed three-quarters of one per cent. as the taxes which should be paid by all taxpayers, as it did fix the taxes to be paid by the chartered railroad companies, there would have been no way to provide for the increase of taxes which has since occurred.

Under the special charters specific taxes were placed in 1846 at three-quarters of one per cent. upon the capital stock paid in and such moneys as were realized from used loans in the construction of railroads. This rate of taxation was made to commence in 1851. It will be noticed while this rate was fixed as a specific tax it was fixed upon the value of the property and not upon earnings.

* * * * *

During this period the percentage of taxes of the ordinary tax payer increased with great rapidity.

Express Companies.

In my message of May 6, 1897, I called your attention to the operation of the present laws with reference to express companies, and pointed out to you that under the laws as they then existed we collected from express companies in the State, as one per cent. on gross earnings, in 1895, \$2,742.34, and in 1896, \$2,563.36. In the neighboring State of Indiana the property of these companies was assessed in 1895 for \$1,330,676.00. Indiana had at that time 1,336 less miles of railroad than Michigan. The business of express companies is largely dependent upon the railroads, so that it is safe to say that with our excessive mileage and excessive commerce the business done in this State must be at least equal to the business done in the State of Indiana.

If the express companies of this State had been assessed at the same amount as in Indiana, their taxes would have been, in 1895, \$37,258.93 instead of \$2,742.34. This is computed at the average rate of taxation as fixed by the board of review for that year.

* * * * *

Values, Not Earnings, Should be Assessed.

There is but one rule consistent with honesty and that is to place all the property of the State upon the same footing and to make every one pay his share and to ask no one to pay more than his

share. No one should ask the railroads, express companies telegraph and telephone companies to do more than they insist upon others doing. We should not be satisfied with less. We should bear in mind that we are only representatives, in passing laws that affect the interests of our constituents and the interests of unborn men and women who are to come after us. Our constituents have a right to demand a substantial and *bona fide* effort to equalize taxes and to make every one pay his just share.

Distribution of Taxes.

The taxes paid by railroad companies, express companies, telegraph and telephone companies under the present system are devoted to the primary school fund. I respectfully recommend to you that the taxes to be collected under any act which you may pass be devoted to the same purpose, and be paid direct to the school districts of the State in proportion to the number of school children. * * *

I recommend that you authorize the appointment of a State board of five, to be non-partisan if the constitution permits, which shall be empowered to make a just and equitable valuation of the franchises and other property of railroad companies, express companies, telegraph and telephone companies at their true cash value, and to ascertain the average rate of taxes paid by the other people of the State for State, county and municipal purposes, and to assess the property of these companies at that rate, the moneys collected to be paid directly to the State treasurer and by him distributed in the same manner as the moneys now collected from specific taxes."

From Message, Regular Session, 1899.

"The average rate of taxation for all purposes in this State exclusive of the special improvement tax, is not far from two and one-half per cent. on the dollar. The most careful research that can be made develops the fact that the rate paid by the corporation that are now taxed on their earnings or income is about six-tenths of one per cent. In other words, individual property pays \$25.00 upon \$1,000.00 of valuation while the property of those quasi-corporations pays \$6.00 upon \$1,000.00 of actual value.

A continuation of this inequality is wholly inconsistent with the faithful discharge of our duty to the public.

There is no reason why the land, buildings and other property of these corporations should be more sacred in our eyes, or should receive more favor at our hands, than the land, buildings and other property of a citizen. The question whether railroad business is profitable, has nothing whatever to do with the mode of taxing it. The income or profit of a railroad company would have to do with the fixing of the value of the property, but not with the system of taxation. A vacant store or dwelling is not as profitable as one rented and producing an income, but could we by any argument,

show that a building should pay a tax upon its earnings, because its location was unfavorable and the investment not profitable?"

"In order to accomplish the object above stated—that of devoting the taxes derived from these corporations to the primary school fund—it was deemed necessary to assess and levy the taxes against this class of property by means of a State board, created for that and other purposes, and to have the taxes when levied paid directly into the State treasury. This method is simple and comparatively inexpensive and cannot be complained of for any good reason. It is the method of the Atkinson bill, so-called, and in that form has received an endorsement of the people of this State. This board should be composed of experts, well equipped by experience and ability to place a proper value upon the property within its jurisdiction. It is neither necessary nor advisable to provide cumbersome or technical machinery for the accomplishment of the desired end. I therefore recommend to you the creation of a State board whose business it shall be to determine the value of this and other property
523 of quasi-public corporations and to levy an assessment thereon, and that the tax so levied shall be paid into the primary school fund under the provisions of the act.

The argument has been presented in certain quarters that an inequality exists in the assessment and taxation of other properties than those above mentioned. Granting this to be true, it does not affect the merits of the plan proposed. It simply casts upon you another duty—that of readjusting the assessment laws of the State, in order that all property within the State shall be placed upon the assessment roll at its true value."

"Let us, in dealing with this question, do that which our conscience dictates as equity and justice. Let us do justice to the railroad companies and to the individual tax payer. Let us not demand from railroad corporations more than we exact from individual property. Let us evolve a system of taxation that will be just to all alike. We should not ask from corporate property more than is its due."

From Proclamation Convening Legislature in Special Session December, 1899.

(Mr. BUTTERFIELD: Same objection.

Mr. WYKES: After referring to the constitutional provisions referred to in the previous proclamation, session of March 18, 1898, the proclamation continues:)

"In violation of the spirit, if not the letter, of these provisions of the Constitution, laws have been passed from time to time by which railroad companies, express companies, telegraph and telephone companies now owning, according to their sworn returns, at least one-third of the property of this State are required to pay only about one-twenty-sixth of the taxes levied for State, county and municipal

purposes; leaving their just proportion of supporting our schools, asylums and other public institutions, and defraying the public ex-

524 expenses, to fall upon the farmers, laborers, manufacturers and other property owners of the State.

Realizing this condition of affairs, the people of the State almost with one voice demanded the enactment of a law, or laws, which should compel all persons to pay their just proportion of taxes.

In recognition of this demand, the fortieth legislature enacted two laws. One of these was an act to provide for the assessment and levy of taxes upon the property of railroad, express, telegraph and telephone companies, known as the 'Atkinson law.' The other is an act amending the general tax laws by creating a board of State tax commissioners, with supervisory control of tax officers, empowered to review and correct assessment rolls, and with other powers. It is generally known as the "Oren law."

On April 26 last, the supreme court of Michigan rendered a decision in the cases known as the 'telephone cases' which practically invalidated the 'Atkinson law.' Because of that decision, an amendment to the constitution of Michigan is imperatively necessary, before laws can be enacted, providing for the equal taxation of all property.

In order to so amend the constitution, the legislature must pass a joint resolution providing for the submission of the amendment to the people at the next spring or autumn election."

From Message to Same Session.

(Mr. BUTTERFIELD: The same objection.)

"It is unnecessary for me, in this message, to discuss at length the existing inequalities of taxation, or to point out the classes of corporations which escape the payment of their just proportion of taxes, or the unfairness and inequality of the theory of specific taxation upon gross earnings, as at present applied.

525 This subject has been thoroughly and exhaustively debated by you already.

The arguments and opinions, which I have from time to time advanced, are contained in my messages to the legislature of 1897 in regular session, to the same legislature in special session in 1898, and to the legislature of 1899.

There is nothing new in the recommendation that corporate property paying specific taxes be assessed and taxed upon its cash value. * * *

You will recall that during the last session of your body the supreme court indicated that the Atkinson act was unconstitutional. Accordingly a joint resolution, providing for the submission to the people of an amendment to the constitution under which laws could be enacted taxing railroads and other corporate property upon its value, instead of specifically upon gross earnings, was framed. * * *

I am aware that there are members of both branches of the legislature who believe that corporations, now paying specific taxes upon earnings, should not be taxed upon the assessed value of their property. This belief may be due to differing causes. I believe, however, if they will lay aside their personal convictions in the matter, and be guided by the expressed wishes of their constituents, the joint resolution will be passed by both house and senate.

The campaign for taxation of railroad and other corporate property upon its value and for equal taxation generally has been continuously conducted for the past three years. By convention and party pledges, and by majorities, the significance of which no one can dispute, the people of Michigan have plainly indicated their opinion and wish in the matter.

By a plurality of 83,409 for governor in the fall of 1896, a presidential campaign, and of 75,097 in the fall of 1898, the people
526 declared with an emphasis which cannot be gainsaid that specific taxes on earnings of railroad and certain other corporate property should be abolished and all property treated alike upon its actual cash value. These splendid majorities were not given to me personally but were the verdict of the people for equal taxation.

The platform of the Republican party of 1898, to which nearly all of you owe allegiance, declared as follows: 'We commend the present State administration for its earnest efforts in favor of the equal and just taxation of the property of railroad, telegraph, telephone and express companies. We favor the immediate repeal of the tax upon the gross earnings of railroad companies and favor a tax to be levied upon the true value of railroad, telegraph, telephone and express companies' property, this value to be determined by a State board. The taxes collected therefrom shall be paid into the primary school fund. We endorse the principles of the Atkinson bill and pledge the support of the Republican party thereto.'

* * * * *

Taxation of railroad and other visible corporate property upon its cash value is equitable and right as a principle. It should be considered and debated only as a matter of principle. It is the only way to bring about equal taxation.

It is claimed by those who have been demanding taxation upon value that corporations now paying specific taxes on earnings have been contributing less to the support of the burdens of government than they would if paying taxes upon value the same as all others. * * *

Equal taxation is a matter of principle, and there is no justice or equity in taxing one class of property specifically upon its earnings and another class upon its value, when the property belonging to both classes can be seen and appraised and assessed at its actual cash value.

527 You have been censured for increasing taxes by the appropriations passed at the last session. Without discussing the justice of such censure, it must be plain to you that railroads and other corporations, paying specific taxes, pay no part of that increase. The rate of their taxes is fixed. As the burdens of supporting the Government grow, they contribute nothing to the increased expense. For illustration, railroads now pay no share of extra taxation made necessary by the recent war.

It is also well for you to remember that there are only three States in the Union in which railroads pay specific taxes upon gross earnings."

From Proclamation Convening Special Session, October, 1900.

"An extraordinary condition and one which requires the immediate application of a remedy by the legislature, exists in this State relating to the subject of taxation. Executive messages, commencing with Governor Bagley's in 1877, have voiced the complaints of the people concerning inequality, irregularity and injustice in taxation. They have arisen largely from the unjust discrimination in favor of certain corporate property and its owners. * * *

The decision of the supreme court of this State upon the principle involved in the Atkinson bill makes it necessary to amend the constitution before all property can be taxed at its true value. It is therefore necessary to adopt an amendment to the constitution so that property now paying specific taxes upon earnings can be taxed at its true cash value. This should be done not only in the interest of uniformity, but of justice. It is no longer seriously denied that corporations paying specific taxes on earnings are not now and have not heretofore borne their just share of the public burdens.

During times of panic and business depression, corporations taxed upon earnings, such as railroads, pay less taxes than during more prosperous times when their earnings are greater. Consequently other property even during hard times, when such property is least productive, must pay higher taxes for the very reason that railroads pay less. When the necessities of State institutions demand an increase in taxes, corporations taxed on earnings pay no part of the increase, and therefore all other property pays not only its share of the increase, but also the share of the railroads and other corporations, which pay taxes on earnings.

The people can be trusted to vote upon a constitutional amendment, which shall make it possible to pass a proper tax law. They should be given the opportunity denied them by the legislature at its regular session in 1899 and the special session of the same year. There is no good reason why action should be delayed. If this amendment is not submitted to the people at the general election to be held November 6, 1900, railroads and other corporations, now

paying specific taxes upon earnings, will continue to be so taxed under the present system until at least 1903.

* * * * *

Acting under authority of section 7 of article 5 of the constitution of the State of Michigan, I hereby call the legislature of the State of Michigan, to meet in extraordinary session on Wednesday, the tenth day of October, A. D. 1900, at twelve o'clock, noon, of that day, to consider the question of the submission of an amendment or amendments to the constitution which will permit the enactment of laws that will provide for the equal taxation of all property, by an assessment of the same at its cash value and for the purpose of repealing or amending the special charters of railroads and other companies."

From Message to Same Session.

"Under our constitution, as construed by the supreme court of Michigan, it is practically impossible to frame a law by which property of railroad, telegraph, telephone and express companies can be taxed upon its true value, unless we resort to local taxation. This latter method would deprive so many school districts of
529 necessary revenue that it would be a most serious blow to our school system."

"Some of the principal arguments against specific taxation upon earnings and in support of taxation upon actual cash value are as follows:

1. That the policy of taxing railroads and similar corporations by a specific tax originated when the State was new, when it was thought necessary to favor the promotion of improved methods of transportation and communication. This reason no longer exists. Specific taxation was regarded at that time as a partial exemption from taxation. It can no longer be seriously contended, however, that the richest corporations in the State should be any longer favored with these special privileges.

2. It was at one time urged by the railroads that their property is in a sense, public property, being devoted to the public use, and therefore should be relieved in part, if not entirely from taxation. * * *

3. That under the system of taxing upon earnings, the State is entirely at the mercy of these corporations. It is compelled to take such reports of earnings as are made to it by railroads and similar corporations which are taxed upon earnings. It is impossible to verify such reports. Again, a large part of the earnings of the railroads comes from 'through' or interstate business. * * *

4. That as I have already stated in a prior message to the legislature, during the period from 1855 to 1895, the rate of taxation for State purposes increased from six cents per capita to \$1.34 per capita. During the same period, the proportion of taxes for State purposes

paid by the railroad companies decreased from 72 per cent. in 1855 to 21 7/10 per cent. in 1895.

5. That the State during the early period of railroad development encouraged the railroads by making them gifts of property and granting them valuable privileges in the shape of exemption from taxation. It ill becomes them now when they are so wealthy and prosperous to resist the efforts of the people of the State to place them on the same footing as to taxation with all other corporations and persons. * * *

6. That is not equal taxation to tax these corporations less as their income decreases. During times of panic, corporations taxed upon earnings, such as railroads, pay less than during more prosperous times when their earnings are greater. Consequently other property, even during hard times when such property is less productive, must pay higher taxes for the very reason that the railroads pay less. * * *

7. That it is unquestionably true that these corporations under the present system of taxation upon earnings, do not pay as much taxes as they would if taxed upon the actual value of their property. That is but another way of stating that they are escaping their share of taxes. I have, however, maintained that it makes no difference whether railroads under the present system of taxation upon earnings have been paying more or less than their proper share of taxes; the system is radically wrong. It is not uniform. I think, as I have already stated, that these corporations should be taxed upon value whether they have in the past been paying too much or too little under the system of taxing upon earnings.

It has been assigned as a reason for voting against measures providing for taxation upon cash value, the fact that no valuation has been made of railroad, telegraph, telephone and express companies' property, and that therefore it could not be said with any degree of certainty that these corporations are not under the present system paying their share of taxes."

531 From Proclamation Convening Legislature in Special Session in December, 1900.

"Under the constitution as so amended, it is now possible to enact a law providing for the assessment and taxation at its cash value of the property of railroad, telegraph, telephone and express companies, and similar corporations now paying specific taxes upon gross earnings.

The amendments to the constitution which make it possible to enact such a law, were ratified and approved by a majority so overwhelming as to leave absolutely no ground for doubt or dispute as to the wish of the people in this matter. * * *

It should be remembered also that the present legislature at its regular session enacted a law, known as the 'Atkinson bill,' providing for the assessment and taxation of certain corporate property

upon its cash value. This is the law which the supreme court of the State indicated was unconstitutional. Its unconstitutionality is what led the legislature to submit the constitutional amendments to the people at the recent general election, so that the law, when enacted, would be valid. There is no reason to suppose that the members of the legislature have changed their minds upon this important question, nor is there any reason why they should. On the contrary, all of the evidence and facts submitted by the State tax commission as a result of its expert valuation of the property of railroad and other corporations paying specific taxes upon earnings, prove beyond contradiction that these corporations have not been paying their share of taxes and that the proposed change in the system of taxation from earnings to cash value as a basis, is entirely warranted and justified by these facts. The work to be performed by the present legislature is, therefore, namely: the re-enacting of a measure along the lines of the 'Atkinson bill.' It should be given an opportunity to again redeem the pledges upon which its members were elected."

532

From the Message to the Same Session.

"I have in the proclamation calling you together in special session at this time, discussed the reasons for so doing. It is not necessary, therefore, for me to repeat them in full in this communication. It is sufficient to say that you are more familiar than the next legislature with the subject which you are to consider; that, therefore, the debate need only relate to the provisions of the law; that you are personally acquainted with the wishes of the people upon this subject; that you passed the Atkinson bill, and your work at this special session is merely the re-enactment of the law with such changes as may be deemed advisable." * * *

"This subject of the taxation of the property of corporations now paying specific tax upon earnings is, as I have said in a previous message, one which has been most thoroughly discussed not only in executive messages and in the legislature but before the people as well. It is now generally understood that, under the present plan of taxation upon earnings, the railroad is its own assessor, and it is practically impossible for the State to know whether it is receiving all of the taxes due it. The average tax payer, too, feels that he is discriminated against when, under the present law, the railroad pays less taxes in hard times when its earnings are less, while he pays a larger tax as a result of the reduction of the railroad tax.

Beyond all this, there is no escape from the fact that there can not be equality of taxation with one form of property paying taxes according to one system, and the rest of the property of the State paying taxes according to another system. It is this which the people do not relish. They believe that if their property is assessed at its cash value and taxed accordingly, that the property of railroads and all other corporations should be taxed in the same manner. * * *

533 In your regular session, by enacting the Atkinson law, you decided that railroad and certain other corporate property should be assessed at its actual cash value. The people at the recent general election made it clear beyond a dispute that you were right and acting according to their wishes in doing so. It must be admitted therefore that the principle being settled, the method of determining the actual cash value of railroad property is not one for the legislature to fix."

From Message, Governor Pingree, the Retiring Governor, to Regular Session of 1901.

"Accordingly, during the regular session of the thirty-ninth legislature which convened in January, 1897, the 'Atkinson bill' was first introduced. It provided for assessment by a State board of assessors of the property of railroad, telegraph, telephone and express companies, at actual cash value. From that day to this, the bill has been fought and its progress stubbornly contested by the corporations affected by it with all of the agencies and methods which it is customary for such corporations to use. * * *

On March 22, 1898, I convened the 39th legislature in special session for the purpose of enacting a law providing for ad valorem taxation of the property of railroad, telegraph, telephone and express companies. Again the 'Atkinson bill' was passed by the house and again it was defeated in the senate.

Equal taxation was the principal issue during the fall campaign of 1898 and a legislature was elected with all of its members pledged absolutely to the enactment of the 'Atkinson bill.' In spite of this a considerable number of members in both houses violated their pledges by employing filibustering tactics against the bill. It finally passed the house by an overwhelming majority. Action upon it was delayed in the senate until just before the spring State election. Fearing the effect of the failure to pass the bill upon the chances of the Republican party's nominees, the senate passed it.

534 The constitutionality of the measure having been questioned, I caused a test case to be instituted in the State supreme court upon the existing telephone tax law, which was identical in principle, with the Atkinson bill, so that if defective the defects could be cured before the adjournment of the legislature. The Atkinson bill was declared unconstitutional by the court on April 26, 1899. An effort was at once made to prepare a law upon substantially the same principle of ad valorem assessment as the Atkinson bill, but it was found impracticable to do so under the decision of the supreme court. * * *

Volumes have been written in support of the principle that the property of railroad, telegraph, telephone and express companies should be taxed upon its assessment at actual cash value by a State board of assessors, and at the average rate of all taxes in the State.

Only one argument has been brought forward against this proposition. That argument is that the present plan of taxing railroads at a specific rate upon gross earnings is just and equitable and that there is no reason why these companies should be taxed upon assessment at their actual cash value, in the absence of any reliable data showing that under the present system they are not paying the same relative share of taxes in the State as other companies and individuals.

I have always contended that whether they are paying their share or not, the property of these companies should be taxed the same as other property is taxed; namely, upon assessment at its cash value, and that until this was done it would be impossible to accomplish equal taxation of all the property in the State. But subsequent developments have proved beyond question that the contention of the railroads is untrue. They are not paying their share of taxes under the present law providing for specific tax on gross earnings."

From Message of Governor Bliss, Incoming Governor, to Legislature of 1901, Regular Session.

535 "Believing that the people desire that all property now paying specific taxes shall be assessed in like manner with other property, I recommend that the legislature provide the necessary machinery for the assessment and collection of taxes on this property upon an ad valorem basis. There should be no hasty consideration of this important question, however, for the interest of hundreds of millions of property is no slight one. It is not necessary to rehearse the steps that have been taken in legislation of this kind, for the duty devolving upon us is plain. * * *

Should there be an increased taxation of all the classes of property now paying specific taxes, the condition above stated would be made worse instead of better and there will be no relief for the inequality now prevailing; the hands of the legislature being tied just as firmly as before.

Why will it not be better to set aside a per capita income for the primary school fund, devoting the excess of the taxes collected from the so-called 'specific tax properties' to the general fund and thereby relieve the property which alone contributes to the general fund at this time.

If this proposition meets the view of the legislature, a constitutional amendment should be submitted limiting the amount the State is required to pay to the primary schools to some certain portion of the tax collected from the corporations now paying specific taxes, the remainder to be covered into the general fund of the State."

536 CLARENCE J. MEARS, being called as a witness on behalf of the defendant, and being first fully sworn by the examiner to tell the truth, the whole truth and nothing but the truth, testified as follows :

Direct examination by Mr. WYKES :

Q. Where do you reside ?

A. Lansing.

Q. Are you employed in one of the State departments ?

A. I am.

Q. In which one ?

A. In the department of state.

Q. In what capacity ?

A. I am clerk of the corporation division.

Q. In your position in that department are you familiar with the records relating to corporations ?

A. I am.

Q. Can you tell from them under what law a particular corporation is organized ?

A. I can.

Q. And the period at which organized and the time at which organized ?

A. Yes sir.

Q. Have you made an examination to determine when the Michigan Central Railroad Company was re-organized ?

Mr. BUTTERFIELD : I object to that.

A. I have.

Q. Have you found the original articles filed on re-organization ?

A. I have.

Q. Have you them with you ?

A. I have.

537 Q. Do they indicate the time at which they were filed—is it indicated upon them ?

A. Yes sir.

Q. Give us the date please ?

A. December 30th 1901, they were filed in the office of the secretary of state.

Q. Does the paper which you hold in your hand indicate that that is the original certificate ?

A. Yes sir.

Q. Does that indicate the law under which the re-organization was had ?

A. It gives the title of the act.

Q. Read the certificate in full ?

A. " Michigan Central Railroad Company.

DETROIT, MICH., December 4th, 1901.

We, Henry B. Ledyard and Edwin D. Worcester, being respectively the president and secretary of the Michigan Central Railroad Company, and respectively the chairman and secretary of the meeting of the stockholders thereof, hereinbelow described, do hereby certify that a meeting of its stockholders duly called, was held this day at the office of the said company in the city of Detroit, in accordance with the provisions of section three, of article one, of an act entitled 'An act to revise the laws providing for the incorporation of railroad, bridge and tunnel companies, and to regulate the running and management and to fix the duties and liabilities of rail-
538 roads, bridge, tunnel and other corporations owning or operating any railroad, bridge or tunnel within this State, being section 6225 of the compiled laws of 1897.' That there were present at such meeting in person or represented by proxy, the holders of 176,837 shares of stock, being more than two thirds in interest of the shares of the capital stock of the said company.

That on motion of De Witt W. Purdee, seconded by Edward D. Hollister, the following preamble and resolution were passed, by the unanimous vote of the stock so present and represented, to-wit:

"Whereas, by an act approved October 15th 1900, the legislature of this State has repealed the charter of this company, to-wit: Act 42 of the session laws of 1846; such repeal to be enforced from and after the 31st day of December 1901, and

Whereas in and by said act repealing said charter, it is provided that the right of this company to institute proceedings against the State for the determination of the damage which this company may sustain by reason of said repeal, is reserved to it, and

Second, that the right of this company to receive compensation from the State on account of the repeal of such charter, shall not be prejudiced by the voluntary surrender of its charter and re-organization, prior to said 31st day of December 1901, under the provisions of section 6225 of the compiled laws of 1897.

Now therefore, resolved, that this company accepts such permission to so surrender its charter and reorganize without
539 prejudice, and hereby surrenders its said charter, and coincidentally therewith, reincorporates under the act of the legislature of the State of Michigan, entitled, 'An act to revise the laws providing for the incorporation of railroad, bridge and tunnel companies, and to regulate the running and management and to fix the duties and liabilities of all railroad, bridge, tunnel and other corporations, owning or operating any railroad, bridge or tunnel within this State:'

That the name of the corporation hereby organized shall be 'The Michigan Central Railroad Company;' that the time of its existence shall be 999 years; that its capital stock shall be \$18,738,000.; that the total number of shares of its capital stock shall be 187,380. of

\$100. each, being the total amount of stock held by the holders of the corporation whose charter is hereby surrendered; that the certificates of stock of the former, The Michigan Central Railroad Company, now outstanding, shall be deemed and taken to be certificates of stock of the corporation hereby organized, until surrender thereof, and the issue of new certificates in their stead; that the number of directors of the corporation hereby organized shall be nine, and the following persons shall act as such directors until the first annual meeting of the new corporation, whose first annual meeting shall be held on the first Thursday following the first Wednesday in May in the year 1902, and thereafter upon the same day in each year, unless the directors of such new corporation shall fix a different date, not later in the year than the date named.

William K. Vanderbilt, New York city.

540 Frederick W. Vanderbilt, New York city.

Chauncey M. Depew, New York city.

Henry B. Ledyard, Detroit, Michigan.

Edwin Hollister, New York city.

Samuel F. Barger, New York city.

Hamilton McK. Twombly, New York city.

Ashley Pond, Detroit, Michigan.

Frederick S. Winston, Chicago, Illinois.

Now, therefore, that the said Henry B. Ledyard, president, and Edwin D. Hollister, secretary, as aforesaid, of the said Michigan Central Railroad Company, heretofore existing under said special charter, hereby declare that in accordance with said preamble and resolution, said company has surrendered its charter and reincorporated under an act of the legislature of the State of Michigan, entitled An act to revise the law providing for the incorporation of railroad, bridge, and tunnel companies, and to regulate the running and management and to fix the duties and liabilities of all railroad, bridge, tunnel and other corporations, owning or operating any railroad, bridge or tunnel, within this State.

In witness whereof, we have signed this certificate as president and secretary respectively of the said first mentioned company and have hereunto affixed its corporate seal at Detroit aforesaid the date and year first above written.

HENRY B. LEDYARD, President.

E. D. HOLLISTER, Secretary.

[Seal of the Company.]

Q. Read the endorsements?

541 A. "Michigan Central Railroad Company. Surrender of charter and reorganization, filed December 30th 1901. C. S. Pierce, deputy secretary of State."

Q. Have you made a search of the records of the secretary of state's office for the articles of the Sault Ste. Marie Bridge Company?

A. I have.

Q. You have the articles with you?

A. I have.

Q. Can you tell me by reference to those articles under what law this corporation is organized?

A. The Sault Ste. Marie Bridge Company as it exists under the present organization, is a consolidation; I think I can give you the act under which the two companies were consolidated.

Q. A consolidation of what?

A. Of the Sault Ste. Marie Bridge Company, a corporation organized and existing under the laws of the State of Michigan and the United States of America, and the Sault Ste. Marie Bridge Company a corporation organized and existing under an act of the Dominion of Canada.

Q. Can you find a reference to the act there under which it is incorporated, under which the consolidation took place—You have previously made an examination to find out what law it was organized under, haven't you?

A. I have not.

Q. If you find any language in the articles of consolidation that refer to the statutes under which they are consolidated, read it?

A. "Whereas, it is considered by the respective boards of directors to be for the mutual advantage of the two corporations,
542 to consolidate and amalgamate their stock, property, and franchise together and under one corporation, for which power and authority are fully granted by the respective statutes under which they have corporate existence as aforesaid."

Q. Have you the original articles of the Sault Ste. Marie Bridge Company, as it existed prior to the consolidation?

A. I have.

Q. Examine them please and see whether there is a statement of the statute under which it was organized; do you find such a statement?

A. There is the statement for which they are incorporated, but it does not specifically mention the act; it says "for the purpose."

Q. Read the statement you find?

A. "The undersigned persons being desirous of organizing themselves into a corporation for the purpose of constructing, operating and maintaining a railroad bridge, hereby make and declare articles of association as follows, to-wit: "

Q. Let me ask you under what law were these articles accepted by the secretary of state?

A. Under the general railroad law.

Q. You found them entered in the books in which the articles filed under the general railroad law are entered?

A. Yes sir, they are indexed with the railroads.

Q. Let me ask you if you have made a search for the articles of the St. Clair Tunnel Company?

A. I have.

Q. You have them with you?

A. I have.

Q. Examine them please and see if you can ascertain under
543 what law the tunnel company was organized?

A. This is also a consolidation.

Q. Examine it and see if the consolidated articles state the law under which the organization took place—were those articles received by the secretary of state under the general railroad law?

A. They were.

Q. You found them entered and recorded with the articles of the railroad company?

A. I did.

Q. Have you made an examination to determine under what law the Toledo & Monroe Railway Company was organized?

A. Yes sir.

Q. Can you tell us under what law?

A. The company is organized under the general railroad law.

Q. Have you made an examination to determine the law under which the Rapid Railroad Company was organized?

A. I have.

Q. Can you tell us what law?

A. It is organized under the general railroad law.

Q. Have you made an examination to determine whether the Lansing & St. Johns railroad is organized under the general railroad law?

A. I don't think it is. The Lansing & St. Johns you refer to.

Q. Give us the proper name, I mean the electric road from Lansing to St. Johns?

A. The Michigan Suburban.

Q. Have you made an examination to determine about that?

A. Yes, sir, it is organized under the general railroad law.

Mr. WYKES: That is all.

Mr. BUTTERFIELD: No cross-examination.

544 CLARENCE MEARS being recalled as a witness on behalf of the defendant, testified as follows:

Redirect examination by Mr. WYKES:

Q. You are still employed in the office of the secretary of state?

A. Yes, sir.

Q. And in the corporation division?

A. Yes, sir.

Q. I hand you the report of the board of State tax commissioners for 1900, and call your attention to the table of purported unincorporated roads found on page 182, and ask you if you have made an investigation to determine whether certain of the roads appearing there are incorporated?

A. Under the general railway act?

Q. Under any law—have you made any investigation to determine whether some of them are incorporated?

A. Yes, sir.

Q. This examination was made in the office of the secretary of state?

A. Yes, sir.

Q. And you have with you the original list of the corporations that was filed?

A. Yes, sir.

Q. Give us from that list those of the railroads enumerated which you find are incorporated under the general railroad law?

Mr. BUTTERFIELD: I object to it unless it appears that it was so at the time this report was made.

Q. Give us at the same time the date of the incorporation?

545 A. I find that the Port Huron Southern Railroad Company was incorporated by filing articles of association in the office of the secretary of state on January 25th, 1900.

Q. Take the next one?

A. I also find that the Sault Ste. Marie Terminal Railroad Company was incorporated by filing articles of incorporation in the secretary of state's office on October 18, 1901.

Q. Under the general railroad law?

A. Yes, sir.

Mr. BUTTERFIELD: I object to it and move to strike it out as immaterial.

A. (Continuing:) The East Jordan & Southern Railroad Company, incorporated under the general railroad law by filing articles of association in the office of the secretary of state July 9th, 1901.

Mr. BUTTERFIELD: That is objected to for the same reason, and we make the same motion.

A. (Continuing:) The Dead River Railroad Company was incorporated under the general railroad law by filing articles of association in the secretary of state's office on November 11th, 1889.

The Paw Paw Railroad Company, incorporated under the general railroad law, by filing articles of association in the secretary of state's office on September 16, 1857. I think that is all that I find in that list that is incorporated under the general railroad law.

Q. Do you find that the Hancock & Calumet Railroad Company is organized under the general railway law?

A. It is.

546 Q. And was in 1900?

A. Incorporated January 14, 1885.

Q. Let me ask you the same question about the Mineral Range Railroad Company?

A. I don't know; I didn't look it up.

Q. I hand you the report of the commissioner of railroads for the year 1901 containing a report of the Hancock & Calumet Railway Company, and ask you to read what you find on page 296 of that report relating to the branches of that road.

Mr. BUTTERFIELD: That is objected to as immaterial and incompetent and not the best evidence.

A. "Description of road. Main line in Michigan from Hancock to end of track 26.74 miles. Total length completed, 26.74. Branches: Lake Linden, from Lake Junction to Lake Linden, 2.51. North Tamarack, from Tamarack to North Tamarack line 1.67 miles.

Tamarack Jr., from main line to Tamarack Jr. mine, .66 miles.

Kearsage, from main line to Kearsage line, .65 miles.

Wolverine, from main line to Wolverine mine.

Dollar Bay, from main line to Dollar Bay dock.

Union coal dock, from main line to Union coal dock, Dollar bay."

Q. I ask you to read from page 297 of the same report what appears under the head of proprietary or leased roads operated by this company.

Mr. BUTTERFIELD: The same objection.

547 A. "Name, description and length of each in Michigan:
Trackage rights, Mineral Range railroad from Hancock depot to Lake Superior smelting works.

Allouez Mining Company, from main line to Louis stamp mill.

Mohawk Mining Company, from main line to Mohawk line.

Tamarack-Osceola Mining Company, from main line to Cook's camp.

Tamarack-Osceola Mining Company, from east branch end of track.

This report covers portions of the Hancock & Calumet railroad for a period from January 1st to June 1st, 1901, from which latter date the operations are included in the report of the Mineral Range Railroad Company."

Q. I ask you to read from the same report of the commissioner of railroads from the report of the Mineral Range Railroad Company, as set out in the railroad commissioner's report on page 475 under the head—everything that appears under the head of proprietary or leased roads operated by this company.

Mr. BUTTERFIELD: The same objection.

A. "Name, description, length of each in Michigan.

Hancock & Calumet railroad, trackage rights D. S. S. & A. railway from Houghton to Keewanaw bay.

Tamarack-Osceola Mining Company, from the main line to Cook's camp.

Tamarack-Osceola Mining Company, from east branch to end of track.

Mohawk Mining Company, from main line to Mohawk line.

Louis Mining Company, from main line to Louis stamp mills."

548 Q. From that same table in the report of the State board of assessors for 1900 give me the names of those railroads which you find incorporated under the train railway act.

Mr. BUTTERFIELD: The same objection.

A. The Detroit Transit railway incorporated under the train railway act.

The Epworth League railway—the name has been changed to the Ludington & Northern Railway Company—incorporated under train railway act.

The Harbor Springs railway, incorporated under the train railway act.

The Mancelona & Northwestern Railway Company, incorporated under the railway act.

Q. Now I ask you to refer to the same table and give me the name of every other purported railway that appears there which is incorporated under any other statute, as appears by the records of the secretary of state's office.

Mr. BUTTERFIELD: That is objected to as incompetent and not the best evidence.

A. The Tamarack & Osceola Copper Manufacturing Company incorporated under the mining law.

The Dollar Bay Land & Improvement Company incorporated under the mining law.

The Allouez Mining Company incorporated under the mining law.

The Stevens Lumber Company incorporated under the manufacturing act.

Q. That is act 232?

549 A. Act 232 of 1885; it is under the provisions now of act 232 of 1903.

The Centennial Mining Company, incorporated under the mining law.

The Nowlin Lumber Company incorporated under the manufacturing act.

The Sagola Lumber Company, incorporated under the manufacturing act.

The Danahar & Melendy Lumber Company, incorporated under the manufacturing act.

The Wisconsin Land & Lumber Company, incorporated under the manufacturing act.

The Mohawk Mining Company, incorporated under the mining act.

The Boyd de Noc Lumber Company, incorporated under the manufacturing act.

The Sparrow & Kroll Lumber Company, incorporated under the manufacturing act.

I think that is all that appears in this list here.

Q. Let me ask you if you find the Alpena, Portland Cement Company to be incorporated from an inspection of the original articles in the secretary of state's office?

A. Yes, sir.

Q. Let me ask you if you find the Atlantic Mining Company to be a corporation by reference to the original articles filed in the secretary of state's office?

A. I do.

Q. Let me ask you if you find the Mitchell Bros. Company to be a corporation?

A. I do.

550 Q. From an inspection of the original records in the secretary of state's office?

A. Yes, sir.

Q. Let me ask you if you find the Mancelona Handle Company to be a corporation as appears from the records in the secretary of state's office?

A. Yes, sir; I find it to be an incorporated company.

Q. Let me ask you the same question about the J. L. Littlefield Lumber Company?

A. I don't find that company.

Q. Let me ask you if you find the Alabaster Company to be incorporated by the records of the secretary of state's office?

A. Yes, sir.

Q. Can you tell me where the records show the principal office of that institution to be?

A. No, I cannot.

Q. Let me ask you if you find the Michigan Buggy Company to be a corporation?

A. I do.

Q. Let me ask you if you find the Coombs Milling Company to be a corporation?

A. I find the William A. Coombs Company to be.

Q. Can you tell me whether you find the Isle Royal Copper Company to be a corporation?

A. Yes, sir; I do.

Q. Under what act?

A. Under the mining act.

Mr. WYKES: That is all.

Mr. BUTTERFIELD: We have no cross examination.

(Hearing here adjourned until Wednesday Feb. 3, 1904, at 2 p. m.)

551 Mr. WYKES: I produce copies duly certified by the secretary of state of the State of Michigan of the articles of incorporation of the following named corporations:

The Alpena Portland Cement Company, shown by the certificate of the secretary of state to be recorded in his office on the 8th day of August 1899, incorporated under the mercantile, manufacturing act.

Mr. BUTTERFIELD: That is objected to as irrelevant.

(Paper referred to marked Exhibit 33 of this date.)

Mr. WYKES: Articles of association of the Sparrow-Kroll Lumber Company, shown by the certificate of the secretary of state to be recorded on the 19th day of April 1895; also recorded under the same act as above, being act 132 of the public acts of 1895, entitled "An act to revise the laws providing for the incorporation of manufacturing companies except such as are limited by act No. 42 of the session laws of 1867, which provides for the incorporation of persons or corporations engaged in the manufacture of salt and mercantile companies, or any union of the two, and fixing duties and liabilities of said corporations."

Mr. BUTTERFIELD: The same objection.

(Paper referred to marked Exhibit 34 of this date.)

Mr. WYKES: Also the articles of association of the Danahar & Melendy Company, shown by the secretary of state's certificate to be recorded in his office on the 28th of July 1876, under the act to authorize the formation of corporations for mining, smelting or manufacturing iron, copper, mineral, gold, silver or other
552 ores or minerals, and for other manufacturing purposes, approved February 5, 1853.

Mr. BUTTERFIELD: That is objected to as irrelevant.

Mr. WYKES: Also of the Centennial Mining Company shown to be recorded in the office of the secretary of state on the 1st day of December 1888 under the mining law.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also the articles of the North Wisconsin Lumber Company, shown to be recorded in the office of the secretary of state on the 14th day of November 1888 under manufacturing act No. 232 of 1885.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association — ing the corporate existence of the Atlantic Mining Company, recorded in the office of the secretary of state on the 3rd day of April 1902, under the law for the incorporation of mining companies.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association of the Bay de Noc Company, recorded in the office of the secretary of state on the 31st day of August 1881, under the provisions of act 187 of the public acts of 1875.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association of the Western Plaster Company, recorded in the office of the secretary of

state on the 15th of January 1891 under an act to revise the laws providing for the incorporation of manufacturing companies, being act 232 of 1885.

Mr. BUTTERFIELD: The same objection.

553 Mr. WYKES: Also a transcript of the articles of association of the Nowlin Lumber Company, recorded in the office of the secretary of state on the 1st day of August 1896, under the manufacturing act, being act 232 of 1885.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association of the Mitchell Bros. Company, recorded in the office of the secretary of state on the 22nd day of June 1903, under the manufacturing act No. 232 of 1885.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association of the Wisconsin Land & Lumber Company, recorded in the office of the secretary of state on the 5th day of July 1900 under the manufacturing act.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: Also a transcript of the articles of association of the Stevens Lumber Company recorded in the office of the secretary of state on the 19th of January 1901 under the manufacturing act.

Mr. BUTTERFIELD: The same objection.

Mr. WYKES: I also produce certified copy of the articles of association of the Empire Lumber Company duly certified to by the secretary of state of the State of Illinois, showing the company to be a corporation under an act of the State of Illinois, entitled "An act concerning corporations, approved April 18, 1872."

Mr. BUTTERFIELD: The same objection.

554 Mr. WYKES: Also a transcript of the articles of incorporation of the Cobb & Mitchell Company, recorded in the office of the secretary of state on the 26th of May 1899, under the act for the incorporation of manufacturing companies.

Mr. BUTTERFIELD: The same objection.

(Papers referred to marked Exhibits 33 to 48 inclusive.)

Mr. WYKES: I produce a certified copy of the report to the commissioner of railroads for the year ending December 31, 1901 of the Mineral Range Railroad Company, and read from page 22 under heading, "Description of road, the sub-head 'Proprietary or leased roads operated by this company':

1. Name, description and length of each.

Hancock & Calumet railroad.

Trackage rights:

D. S. S. & A. railway from Houghton to Keewanee bay.

Tamarack — Osceola Manufacturing Company, main line to Cook's camp.

Tamarack — Osceola Manufacturing Company, east branch to end of track.

Mohawk Mini-g Company, main line to Mohawk mine.

Allouez Mining Company, main line to Allouez stamp mill."

I also produce a duly certified copy of the annual report of the Hancock & Calumet Railroad Company to the commissioner of railroads for the year ending December 31, 1901, and read from page 24 under the head of "Branches."

"Lake Linden, Lake Junction, Lake Linden.

N. O. Tamarack, Tamarack North Tamarack mine.

555 Tamarack Jr., from main line to Tamarack Jr. mine.

Kearsarge, from main line to Kearsarge mine.

Wolverine, from main line to Wolverine mine.

Dollar bay, from main line to Dollar Bay dock.

Union coal dock, from main line to Union coal dock, Dollar bay."

On page 22 under head of "Proprietary or leased roads operated by this company.

Name, description and length of each.

Trackage rights.

Mineral Range railroad, from Hancock depot to Lake Superior smelting works.

Allouez Mining Company, from main line to Allouez stamp will.

Mohawk Mining Company, from main line to Mohawk mine.

Tamarack & Osceola Mining Company, from main line to Cook's camp.

Tamarack & Osceola Mining Company, from East Branch to end of track.

This report covers operations of Hancock & Calumet Railroad Company for period from January 1st to June 1st, 1900, from which later date the operations are included in the report of the Mineral Range Railroad Company.

Mr. BUTTERFIELD: To which we object on the ground that it is irrelevant.

Mr. WYKES: We move to strike from the record Exhibit F of the bill of complaint so far as it has been introduced in evidence and particularly to the table attached thereto showing 556 valuations and percentages in the several townships, on the ground that such table is not a table required to be prepared by the resolution of the State board of equalization, and that no authority of law existed for its preparation or inclusion in the report of the State board of equalization.

(Hearing here adjourned until Monday January 8, 1904.

557 BRUCE O'DELL a witness produced on the part of the defendant, *who* being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. WYKES:

Q. How old are you?

A. Forty years.

Q. Where do you reside?

A. Cadillac, Michigan.

Q. Are you connected with any business in Cadillac?

A. Yes, sir.

Q. What is it?

A. In the lumber business for Cummer-Diggins & Company.

Q. What connection have you with the Cummer-Diggins Company?

A. Well, it would be rather hard to describe; principally as sales manager.

Q. Do you know whether this company owns and operates a lumber road or not?

A. A lumber road did you say?

Q. Yes, sir?

A. Yes, sir; they do.

Q. State where this road begins and where it ends?

A. Well, it begins at Cadillac and ends at the present time about ten miles northwest of Cadillac, somewhere between eight and ten miles, I don't know just how far it is.

Q. I ask you if you made an affidavit in reference to this road?

A. Yes, sir.

558 Q. I will read the affidavit and you may pay close attention to it and tell me whether it is the one you made?

"STATE OF MICHIGAN, }
County of Wexford. }

BRUCE O'DELL of Cummer-Diggins & Company deposes and says: That he knows of the existence of a railroad in Wexford county between Cadillac and lumber camps northwest from Cadillac, and the facts in relation thereto hereafter stated. Answers to questions hereafter set forth are within his knowledge, and that he believes the same to be true.

Q. 1. By whom is the road owned?

A. Cummer-Diggins & Company.

Q. 2. Nature of owner, whether a corporation, copartnership or individual? If corporation name the same.

A. A copartnership.

Q. 3. What is the nature of the business carried on over the road?

A. Hauling logs for Cummer-Diggins & Company.

Q. 4. For what purpose was it constructed?

A. Same.

Q. 5. What is to be done with it when its purpose is accomplished?

A. It is the purpose of this company to operate the road as above for twenty years or longer.

Q. 6. Is it designed for purpose of carrying passengers or freight generally?

A. No.

559 Q. 7. Is it used in carrying passengers and freight generally for persons or corporations other than the owner?

A. No.

Q. 8. Are there any instances of the carriage of passengers or freight over this road for persons or corporations other than the owner? If so, give the aggregate amount of revenue derived from the carriage and state period during which earned?

A. No revenue derived from that source.

Q. 9. If any freight was carried for persons other than the owner state whether carried on special contract in each case or upon regular schedule of prices?

A. None carried.

Q. 10. State separately any amount derived from transportation of passengers?

A. None.

Q. 11. Has the road any regular time table or schedule upon which they run?

A. No.

Q. 12. Or is it run simply to suit the convenience of the owners?

A. Run to suit convenience of owners.

Q. 13. Has road a regular schedule of freight tariffs?

A. No.

Q. 14. Or passenger tariffs?

A. No.

Q. 15. If the road has any regular schedule of freight rates or passenger rates, or has done any freight business for other persons or corporations, or carried any passengers, state fully and specifically all the surrounding circumstances, giving detailed statement of income, time during which the business was carried on, expectancy to continue, etc.

A. No schedule.

Q. 16. What is the nature of the road, standard or narrow gauge?

A. Thirty-six inch gauge.

Q. 17. Total length of road, length of main line and length of each branch?

A. Main line ten miles; twenty branches aggregating fifteen miles; branches are changed frequently as circumstances require.

Q. 18. Does it make connection with any other road, and state at what point?

A. No.

Q. 19. Is any traffic carried over it by any railroad company, stating name of the company, if any?

A. No.

Q. 20. Is the road adapted to the carriage of passengers and freight;

that is, taking into consideration the locality and settlements thereon?

A. No.

Q. 21. Are there any settlements on the line of the road, or at either terminal? If so, state fully the facts in relation to same, giving number of inhabitants of each.

A. None except Cadillac.

Q. 23. Give each terminal and state surrounding conditions.

A. Cadillac, and lumber camps in woods.

561 Q. 24. What is approximate cost?

A. Cost of building and operating road has been carried into account for expense of logging. Have no account from which cost of construction could be given even approximately.

Q. 25. What is the value of the road including the equipment, measured by cost of reproduction.

A. Cannot tell for lack of definite information.

Q. 26. What is the value of the road, including equipment used in connection with the business carried on by its owners, taking into consideration all sources of revenue, both from the operation of the road and otherwise?

A. Don't know.

Q. 28. Is the road operated simply as incidental to the lumber, logging and wood business of the company?

A. Yes.

Q. 29. State number of locomotives used?

A. Four.

Q. 30. State number of cars owned and number of each description?

A. 76 No. 2 Russell logging cars, two flat cars, two box cars.

Q. 31. Have you any connection with the Cummer-Diggins & Company? If so, state what?

A. Sales and office manager.

(Signed)

BRUCE O'DELL.

Subscribed and sworn to before me this 12th day of October A. D. 1903.

WALTER F. HODGES,

Notary Public, Wexford County, Michigan.

My commission expires January 7, 1906."

562 Q. Look at the affidavit?

A. The only thing I want to change is the total number of miles of main line and connections. There is more than I thought there was at that time. There is something in the neighborhood of twenty miles instead of fifteen.

Q. Do you mean the branches?

A. Yes, sir.

Q. You have stated twenty?

A. There are twenty branches aggregating a little more than twenty miles; that is approximately correct, the aggregate in the neighborhood of fifteen miles. I don't know that I fully understand the question there "Has it any connection or does it connect with any other road."

Q. That means an ordinary connection—has it a Y that connects with any other road, or is there a crossing with any other road?

A. Well, we have a Y to connect with the Ann Arbor road. For instance, in our yard we have a three rail track, and take one of our 36 inch gauge cars we can run that over there and we can run a standard gauge car out of our yards at Cadillac, and we have a common Y that we switch the cars on to from our tracks for the Ann Arbor to take freight out of our yards.

Q. Is your road the same gauge as the Ann Arbor?

A. No, sir; our road is a 36 inch gauge, and theirs is a standard gauge.

Q. Your cars could not go on to the Ann Arbor tracks?

A. No, sir.

Q. You have what is in the nature of a siding there from the Ann Arbor, and the cars of both companies run on to it.

A. Yes, sir.

563 Q. The facts that are stated there were true at the time that affidavit was made, were they?

A. Yes, sir.

Q. What changes, if any, had there been between the middle of 1901 and the time at which this affidavit was made?

A. There was practically no change that I know of, except that branches of the road were taken up and moved repeatedly as the timber was cut off from the land that they reached.

Q. Did you have more or less line in the middle of 1901?

A. Had less.

Q. How much less?

A. I think in the neighborhood of two miles.

Q. Of main track?

A. O, of main track?

Q. Of main track or siding?

A. Yes, there was in the neighborhood of two miles less of main track.

Q. Any less of the sidings?

A. I think the sidings were about the same.

Q. Now this road, does it run entirely through timber owned by the Cummer-Diggins Company?

A. Well, at the time the road started it run through their timber all the way, yes. Of course part of the timber has been cut off, near to Cadillac; some of the land is now enclosed in farms.

Q. It has been sold by the Cummer-Diggins Company, do you mean for farms?

A. Yes, sir.

Q. About how many of those farms are there along the line?

A. I could not say as to that even approximately. There are probably three farm houses adjacent to the railroad from one end of the line to the other.

Q. How long have you been connected with the Cummer-Diggins Company?

564 A. Since July 10, 1902.

Q. What was your business previous to that time?

A. I was in a similar position with Stillman, Wright & Company at Berlin, Wisconsin.

Q. Where were you located at that time--were you located in Cadillac?

A. When?

Q. Previous to your connection with Cummer-Diggins & Company?

A. No, I was located at Berlin, Wisconsin.

Q. Are there any other logging camps along this line than the Cummer-Diggins camps?

A. There is one adjacent to the Cummer-Diggins camps at the present time; there was not at the time this affidavit was taken.

Q. Where is that, near the terminus?

A. Yes.

Q. Are they at the present time using this line in the carrying of their produce?

A. They are not using it, but we are transporting some logs from that company.

Q. When did you begin?

A. During the present winter, just what time I could not say, it was late in the fall, I should think about November.

Q. Have the Cummer-Diggins people lumbered all of their forests in that neighborhood?

A. No, sir.

Q. They are still logging and carrying down their own products?

A. Yes sir.

Q. Can you tell the amount of logs that you carried for this other company?

A. I can tell approximately, very nearly. Up to the first of January we had hauled for them about 350 cars of logs.

Q. Have you a contract with them for hauling their logs?

565 A. There is a price agreed upon.

Q. A price agreed upon?

A. Yes.

Q. What is it?

A. \$1.50 per day.

Q. What is the length of the haul?

A. I think about eight miles.

Q. Do you know the amount of timber that this other company has in there? Let me ask you first, what is the name of the company that you have been hauling logs for?

A. Murphy & Diggins. Diggins in the firm of Murphy & Dig-

gins is a brother to the Diggins in the firm of Cummer-Diggins Company.

Q. Is that also a copartnership?

A. Yes.

Q. Now can you tell me about how much timber the Murphy & Diggins Company has on this line?

A. I could not only approximately; there is less than a section of land yet that they expect to log from.

Q. Less than a section of land?

A. Yes, that is adjacent to the Cummer & Diggins road as now constructed.

Q. At the rate they are cutting how long before they will finish?

A. I think they expect to finish it next year.

Q. Then do I understand you to say the rest of the timber in that locality is owned by the Cummer-Diggins Company?

A. Well, not all of it, because there are small pieces here and there owned by different individuals.

Q. Is there any amount of it that is owned by persons or companies other than Cummer-Diggins & Company?

A. Well, there is none in large tracts; what the amount would be I couldn't tell, because it would be forty acres here and eighty acres there.

566 Q. Would there be sufficient of it to feed a railroad?

Mr. BUTTERFIELD: That is objected to as incompetent.

Q. To make a railroad a profitable institution, is there sufficient?

Mr. BUTTERFIELD: The same objection.

A. No, there is not enough of it, aside from Cummer-Diggins & Company's holdings to support a railroad.

Q. You said in your affidavit that there were no settlements along the line. Are there any logging camps other than the Cummer & Diggins' camp and the temporary camp of the Murphy & Diggins Company?

A. No sir, not any.

Q. Have you since you made that affidavit made any investigation of the value of this road?

A. I have not.

Q. Can you tell me what it is assessed at?

A. No, sir; I doubt if I know.

Q. And this carrying of logs for the Murphy & Diggins Company, is it the only business for outside parties?

A. It is the only business done for outside parties.

Q. I understand you to say that was done under a special contract?

A. Yes, it is merely a nominal price for carrying, and the contract is influenced very largely because F. A. Diggins of Murphy & Diggins is a brother of the Diggins in the Cummer-Diggins Company.

567 Cross-examination by Mr. BUTTERFIELD:

Q. How many men are there in the Murphy & Diggins camp?

A. That I do not know.

Q. How do they get into camp from Cadillac?

A. I think they do.

Q. How—do they come over the Cummer & Diggins road?

A. I don't think they do; I think most of them go by team.

Q. Those that don't go by team go on the railroad?

A. They might, but as to that I could not say.

Q. You have a caboose, I suppose?

A. No, sir.

Q. No caboose?

A. No sir.

Q. How do the train crew ride, on the locomotive or car?

A. Our train crew rides on the locomotive.

Q. If anybody else rides they would either ride on the locomotive or on the cars?

A. On the flat car. We carry with each train one flat car to carry extra couplings and to carry our supplies to the camps and things of that kind, that is, upon a flat car.

Q. Do you ever carry any supplies to the Murphy & Diggins camp?

A. I don't know if they do or not; they might. If they do there is never any charge made of it. So far as passengers are concerned, if one of the farmers along that line was in town and wanted to ride on our train he would simply climb on and go and nothing would be said about it.

Q. There is not enough of it so you make any charge?

A. We never made any charge for carrying passengers of freight except—

Q. Down at Cadillac your company has a mill, of course.

568 A. Yes, sir.

Q. And the tracks are so arranged that the Ann Arbor railroad engines can come into your yard?

A. Yes, sir.

Q. And they can move their standard gauge cars in your yard?

A. In our yard, yes, sir.

Q. Are the narrow gauge engines so equipped that they can move broad gauge cars?

A. Yes, sir.

Q. You have a coupler on the narrow gauge?

A. Yes, sir, either double coupler or a coupler with a long pin.

Q. A long link and pin?

A. Yes.

Q. Do any of the cars of your company go to any other industry besides your mill?

A. No, sir.

Q. In Cadillac?

A. No, sir.

Q. Do all the logs that are brought down by your railroad go to your mill?

A. Except the few logs that we haul for Murphy & Diggins.

Q. And they go where?

A. They are dumped from our tracks into the lake.

Q. I suppose there would be no objection, would there, to the Cummer & Diggins road hauling logs for any of these persons along the line who own small tracts if they made application?

A. Well, there might not be any objection, but they wouldn't haul their logs for them?

Q. Why not?

A. Because they want to buy their logs.

Q. The reason they wouldn't would be because they would be brought into the market in competition with their own?

A. Yes, sir.

Q. Beyond the terminus of the Cummer & Diggins road
569 is there some timber that could be reached by extensions, four, five, six or ten miles?

A. Yes, we have timber on beyond our present railroad, as far as ten or twelve miles.

Q. I suppose it is the plan of the firm to extend the road.

A. Extend the road as the timber is cut off.

Q. And I suppose if at some point along the road, near perhaps where the terminus is at present, there should spring up a little village, from some cause or other, and it was found that the presence of that village would be a source of material revenue to your road, that you would adjust yourselves to avail yourself of the revenue, wouldn't you?

A. I couldn't say what the policy of the company would be.

Q. In your experience as a lumberman and manager of lumber business, that would be a prudent thing to do, wouldn't it, provided, I mean, there was enough of it to make it an object.

A. I could tell you if it was my own business that I was handling, but I couldn't tell you what the policy of Cummer-Diggins & Company would be.

Q. If it was your own business what would be prudence, provided you found a town springing up along the line which had business enough to make it a source of material revenue; wouldn't it be prudence to adjust yourself to handle it?

A. If it were a business of my own and I found I could make it profitable to do so, I certainly should do it.

Q. So that I take it that even though it might be the present intention of the Cummer & Diggins firm at the end of twenty years, or after the timber which your firm owns has been exhausted,
570 to take up the railroad, it is not possible to fully foresee what may happen in twenty years.

A. Certainly not.

Q. And I suppose it is entirely possible that something may hap-

pen that will change the view of the Cummer & Diggins Company as to what would be a prudent thing to do with the road.

Mr. WYKES: I object to all this line of questions as being incompetent.

Q. Is that so?

A. That would be only conjecture on my part.

Q. It would be simply conjecture on anybody's part, but I am simply getting it into the record as a fact that you can foresee today what may be the conditions twenty years from now?

A. No certainly not.

Q. That so far as you know there is no immutable determination on the part of this firm to take up this road at the end of twenty years or any other particular time, regardless of the conditions surrounding it at that time, is there?

A. No, I think not.

Q. In other words, what they do with the road when they exhaust their timber will depend upon conditions surrounding it?

A. Very largely, yes.

Q. Do you know whether the railroad is assessed separately or not in any of the townships through which it runs?

A. I do not know, but I think that it is assessed with the land.

Q. It is all assessed locally, whatever property you have is assessed in the townships?

A. Yes, sir.

571 Q. Does the Cummer & Diggins road reach any other industry in Cadillac except their own mill?

A. No sir.

Q. And all the lumber that is manufactured in the Cummer & Diggins mill goes out over some other railroad?

A. Yes, sir.

Mr. BUTTERFIELD: That is all.

Redirect examination by Mr. WYKES:

Q. Where are the Murphy & Diggins logs manufactured, where do they go to?

A. They are manufactured at Cadillac. Their mill is on the lake opposite the Cummer & Diggins mill.

Mr. WYKES: I move to strike out so much of the testimony of this witness as speculates and comments on the condition which may exist in the future, on the ground that it is immaterial and incompetent.

Mr. BUTTERFIELD: I move to strike out all his testimony, on the same ground.

(Hearing here adjourned until 2 p. m.)

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Afternoon's Proceedings.

GEORGE L. LEWIS, a witness produced on the part of the defendant, and being duly sworn by the examiner to tell the truth, the whole truth, and nothing but the truth, testified as follows :

Direct examination by Mr. WYKES :

Q. How old are you ?

A. Thirty-nine.

Q. What is your business ?

A. Mechanical engineer.

Q. How are you at present employed ?

A. I am at present erecting a dredge for the Marion Steam Shovel Company of Marion, Ohio.

Q. Are you under continuous employment with this company ?

A. No,—that is, I am and am not. When I want to attend to any other business, or business for myself, I drop it, just like going home.

Q. Did you assist Prof. Cooley in 1900 in making the appraisal of the railroads, the Michigan railroads ?

A. I did.

Q. In what capacity ?

A. As expert in miscellaneous equipment.

Q. You had charge of the entire inspection of miscellaneous equipment ?

A. Yes, sir.

Q. Prior to your connection with this appraisal what had been your experience which would familiarize yourself with the miscellaneous equipment of a railroad ?

573 A. Directly prior to that I had been with the—

Q. Begin at the beginning of your experience.

A. The beginning of my career do you mean ?

Q. Your experience which would familiarize you with the railroad equipment.

A. Prior to 1883 running stationary engines. In 1883 passed an examination as stationary engineer in Detroit, Michigan, R. G. Ray, inspector; renewed certificate in 1884. Was with the Daniel Scotten tobacco works, Detroit, prior to 1884 in capacity of second engineer; quit of my own accord and returned home to Toledo. I remained home until July 1886, when I went to California, where I followed mechanical engineering, working in the machine shops of H. R. Rice, San Francisco, Daniel Best of San Leandro, and other shops; also engineer in the mines of Thomas Ewing of San Francisco until taken sick, which compelled me to give up the mines; afterwards worked on construction of dredges and ditching machines, it sometimes being necessary to prepare my own designs, make the drawings, specifications, etc. Built and operated one of these machines for the California Bridge Company, general contractors of

San Francisco; could have remained with them longer but quit to return to my home in Toledo in 1889. At no time while in California was I discharged from any work. On the contrary, at various times I was promoted as superintendent of various works. In 1891 worked in the capacity of steam shovel engineer for Drake & Stratton, No. 100 Broadway, New York, John O'Connor, general superintendent. The shovel was located at Millersburg, on the T. W. & S. railroad. Since 574 1892 have been with the Marion Steam Shovel Co. of Marion

Ohio, setting up and starting steam shovels and building and operating barges for them, except about two years and a half in business for myself contracting steam shovel work, having my own shovel. In 1899 built and operated a dredge at St. Petersburg, Russia and remained with the Russian government some time in the capacity as dredge expert. In 1900 had completed and built the hulls and placed the machinery on three dredges in the United States, and have one to build in Honduras, Central America, for the Marion Steam Shovel Company as soon as I can complete the present part of the appraisal that is assigned to me.

Q. How long were you engaged in this appraisal?

A. As near as I can remember, something about like four months.

Q. Since the completion of that work what has been your employment, what have you done, detail it as you did this previous experience?

A. I have been engaged in—you don't want the minute details?

Q. Just as you have given it there, in the same detail you have given it there?

A. After completing the dredge in Honduras I went back to Russia to build a second bridge for the government and remained there about eight months instructing their employees and looking after the work, and remained at home in the neighborhood of about a year, not following the steam shovel business. Then I took charge of some work on the Pennsylvania line in Indiana on a percentage; remained on that work about four months; then went into

575 Missouri to operate a 90-ton steam shovel used in stripping coal. After the work shut down there I began building this dredge that I am now engaged on in Michigan.

Q. You say you had entire charge of the field work of the department of miscellaneous equipment?

A. Yes sir.

Q. In engaging upon that work, when you engaged upon it, were general instructions of the manner in which it should be carried forth, given you?

A. Yes sir.

Q. They were in printed pamphlet?

A. I don't remember, I think they were—yes, they were.

Q. The same instructions that were generally given throughout this work?

A. Yes sir.

Q. You know that to be so?

A. Yes sir.

Q. Now detail for us the method in which you proceeded to acquire information as to the properties, the miscellaneous equipment, where they were situated; detail the method in which you went at the inspection and how you made your reports?

A. In compliance with our instructions I went to the offices of the different railroads to locate that part of the equipment that came under my heading—under the heading of miscellaneous equipment.

Q. Let me ask you to detail what would come under that heading?

A. That is a pretty hard question to answer, with the exception of steam shovels, dredges, derricks, wrecking cars, pile drivers—virtually the odds and ends of railroad equipment.

576 Q. You may proceed with the general method. I interrupted you to ask a question what miscellaneous equipment consisted of, and you were saying you went to the offices or the books and took from them such information as was given.

A. After procuring as much information as possible through the records of the office, that were obtainable at that time—and at the beginning we had some little difficulty in getting at the records, but later on the railroad companies offered us all the facilities that they could—and as I say, after procuring the data as to where the equipment was to be found the kind of equipment, and if possible the cost to the railroad company, I made a personal inspection of the property, taking into consideration the first cost, the general physical condition of the machine, its age, the state of repair—or the physical condition would cover it—the state of repair it was in when I say it and its ability to do work as compared with modern machines. Often times the machine, to a person not experienced, would appear to be of very little value, from the fact that it would be covered with dirt and grease, but at the same time it would be capable of doing 75 to 90% or 95% of the work of a new machine, and these facts, through actual experience in handling machinery, I used in basing the per cent. of value.

Q. You made a full description of each machine you inspected, did you, on your field notes or upon the blank?

Q. Yes, such as giving the number, the shop number—the manufacturer's number and shop number of the railroad company and placing the per cent. of value that it was at that time.

577 Q. You made a full report of everything that you found in the description, with the percentage of depreciation?

A. Yes sir, that is the report as you see it there.

Q. And your reports you will find bound in the office and field notes of the Michigan railroad appraisal?

A. Yes sir.

Q. And all of the sheets which purport to be reports on miscellaneous equipment represent your work?

A. Yes sir.

Q. And did you do any of the office work?

A. Some of it, yes sir.

Q. How were the prices applied—where did you get your prices to apply to the equipment that you found?

A. From the manufacturers, some from the railroads, and some from the dealers.

Q. Where you found on the books the cost price, did you take that?

A. Of the railroads?

Q. Yes?

A. Yes sir.

Q. And where you didn't have that you—

A. Took the manufacturers' or the dealers' price.

Q. You were in the office during the time that the computation on this work were made?

A. Yes sir.

Q. And you assisted in the computation?

A. Yes sir.

Q. Was there any system of checking results to insure accuracy?

A. Yes, I think there was. If I remember rightly one man would compute it and another would check it. I know I checked some of them myself.

Q. The results of your work were tabulated and went into the tax roll compilation?

A. Yes sir, I believe so.

Q. And appear there as the totals under the head of miscellaneous equipment?

A. Yes sir.

Q. Now, taking your knowledge of equipment of this character, would you say that the result of your work was to place a conservative and fair value upon the property which you found and appraised and examined?

A. According to our instructions, that was done to the best of my ability.

Q. And you think it was a fair conservative value?

A. I do.

Cross-examination by Mr. BUTTERFIELD:

Q. I suppose the cases in which you found the cost price of various articles of miscellaneous equipment on the books of the company, were rare, were they not?

A. Yes, I may say so.

Q. And for the most part your original cost of re-production of the miscellaneous equipment was based upon prices that you obtained through correspondence?

A. Well correspondence and personal inquiry.

Q. Inquiry of whom?

A. Manufacturers and dealers.

Q. Did you ever have any occasion to buy or sell a steam shovel?

A. Yes sir.

Q. Personally?

A. Yes sir.

579 Q. When?

A. I think it was in 1894 that I bought a shovel, a yard and a half shovel from the Marion Steam Shovel Company.

Q. Is that the only time you bought one?

A. Yes, for myself.

Q. Did you ever have occasion to buy for yourself any of these other machines that are classed as miscellaneous equipment, pile drivers or derricks?

A. No sir.

Q. Wrecking cars, construction cars, cantilevers, excavators, and so on?

A. No sir.

Q. So your information as to the cost price of one of those machines was based upon what you learned by inquiry, either by correspondence or otherwise, from dealers, at the time, in the year 1900 when you made the appraisal.

A. Largely, with the exception of steam shovels, pile drivers and wrecking cars.

Q. How did these differ from the others?

A. They compared about the same.

Q. Did you ever buy any, I mean a wrecking car?

A. No sir.

Q. How did you learn the price?

A. From the company's books.

Q. In every case where there was a wrecking car did you find the price the company paid for it?

A. No sir.

Q. How about pile drivers?—you mean you learned that from the company's books in some cases?

A. Company's books or inquiries.

580 Q. You didn't find it in every case did you, on the company's books?

A. No, I can't say I did in every case; sometimes taking the officials' statement that that was their cost, which afterwards I found through the manufacturers checked very near right.

MR. BUTTERFIELD: I move to strike out all the testimony in the record which purports to give valuations of miscellaneous equipment, on the ground that the testimony is incompetent.

Redirect examination :

Q. Do your reports show when you did find the figures giving the purchase price on the books of the company—will your report show that?

A. I can't remember whether they will or not.

Q. Is there any part of the equipment in which you made a complete inventory of everything that entered into it for the purposes of valuation?

A. How is that?

Q. Is there any part of the equipment, any particular kind of equipment, in which you made a complete inventory of everything that entered into the making of it, for instance, in a wrecking car?

A. Yes, the record will show the amount of tools, number of tools and kind of tools that were in the car.

Mr. WYKES: That is all.

581 Mr. O'DELL, being recalled by Mr. WYKES, testified as follows:

Q. Can you tell me what corporation operates the Jennings & Northeastern railroad?

A. Mitchell Bros. & Co. of Cadillac, Michigan.

Q. Do you know whether the Cobb & Mitchell Company, a corporation, operates the Boyne Falls & Northeastern railroad?

A. I know they operate a railroad in that vicinity, whether it is of that name or not, I don't know.

Q. Do you know what one of the termini of that road is?

A. Boyne Falls, it connects there with the C. R. & I.

Recross-examination by Mr. BUTTERFIELD:

Q. What are the termini of the Jennings & Northeastern?

A. One is Jennings and the other goes to their timber.

Q. How large a place is Jennings?

A. I don't know precisely; it is a village I think of about 400.

Q. Is there any other railroad at Jennings?

A. Yes.

Q. The C. R. & I.

A. Yes sir.

Q. Does the Jennings & Northeastern road have a physical connection with the C. R. & I.

Mr. WYKES: We object to this as improper cross-examination.

A. I do not know as to that.

Q. How far is Jennings from Cadillac?

A. It is under 20 miles, I think about 15 miles.

Q. Is the Jennings & Northeastern a standard gauge road?

582 A. Yes, sir.

Q. Do you know whether it carries any freight?

A. I do not.

Q. For people outside of Mitchel Bros.?

A. I don't know.

Mr. WYKES: The same objection.

Q. Do you know whether it carries any passengers or not?

A. No, sir; I do not.

Q. Do you know anything in reference to the Boyne Falls & Northeastern, whether that carries passengers and freight for others or not?

A. No, sir.

Q. How do you know Mitchel Bros. owned the Jennings & Northeastern?

A. In a general way, from talking with men connected with the Mitchel Bros. Company.

Q. It is hearsay I suppose, isn't it?; you haven't any first hand knowledge of your own, all you know is what you have heard somebody say?

A. I have never been on the road, or anything of that kind.

Q. Have you ever had anything to do with the business of the road?

A. No sir.

Q. So you would know Mitchel Bros. owned it?

A. No sir, only as I have heard some of the officials of Mitchel Bros. speak of it, and as generally spoken of in the community where I live—as owning and operating a railroad there.

Q. Do you know whether Mitchel Bros. are a partnership or not?

A. Mitchel Bros. are incorporated.

Q. That is the name?

A. Yes.

Q. The corporate name?

A. Yes sir.

583 Q. Do you know what law they are incorporated under?

A. No sir.

Q. How do you know they are incorporated?

Mr. WYKES: We showed it the other day.

A. Simply from personal talks with the officers of Mitchel Bros. Company and from the advertisement of the corporation in our local papers.

Q. You never saw the articles of association?

A. No sir.

Mr. BUTTERFIELD: That is all. I move to strike out the testimony as to the Jennings & Northeastern and the Boyne Falls railroads, as incompetent.

584 HARRY D. NORRIS, a witness produced on behalf of the defendant, being first duly sworn by said notary, testified as follows:

Direct examination :

- Q. Where do you reside Mr. Norris?
 585 A. I presently reside at Oakland.
 Q. Where have you previously resided?
 A. At Thompson, Schoolcraft count-, Michigan.
 Q. Do you know of and were you connected with the F. & F. Lumber Company?
 A. I was superintendent of the F. & F. Lumber Company.
 Q. Is this company a corporation?
 A. No, I believe it is a co-partnership, a limited co-partnership.
 Q. What was the business of the F. & F. Lumber Company?
 A. They were engaged in the lumber business, in the manufacture and sale of lumber.
 Q. Where?
 A. In Michigan.
 Q. At what place in Michigan?
 A. Thompson, Michigan.
 Q. Do you know if this company owned a logging road?
 A. Yes sir, it did.
 Q. What was the length of it?
 A. About 25 or 26 miles. We had one branch connecting Thompson with South Manistique.
 Q. Did it run on beyond the point where it made the connection?
 A. No sir. The main line, except through Thompson, ran through timber land.
 Q. I ask you if you typewrote this affidavit?
 (Witness is shown affidavit, a copy of which is hereinafter inserted.)

586 A. I believe I did, it looks like my typewriting.

Q. Did you sign and swear to it?

A. Yes sir, that is my signature.

Q. Read the affidavit.

Mr. BUTTERFIELD: I object to the reading of the affidavit, that it is incompetent and immaterial and not the best of evidence.

The following is a copy of the affidavit presented to witness to be read to him:

STATE OF MICHIGAN, }
 County of Schoolcraft, } ss:

Harry D. Norris of Thompson, Schoolcraft county, Mich. being first duly sworn, deposes and says, that he is the superintendent of

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Harry D. Norris of Thompson, Schoolcraft county, Mich. being first duly sworn, deposes and says, that he is the superintendent of

the F. & F. Lumber Co. Ltd. a corporation limited of Grand Rapids, Mich. which is the sole owner of a railroad from the village of Thompson, Schoolcraft county, north through said county about twenty miles and has personal knowledge of the facts herein stated and knows the same to be true.

That said road is standard gauge and was built for the sole purpose of use as a lumber and logging road in connection with the business of the Delta Lumber Co. of which it was purchased by the said F. & F. Lumber Co. Ltd. as a part of the lumber business of said company.

That the same is not adapted to and is not used in the general carriage of passengers and freight and that said company as such owner does not hold itself out as a carrier of passengers and freight

over and upon said railroad, as said railroad is not so situated
587 as to be used for the purpose of carrying passengers or freight generally, as there are not settlements thereon except as hereinafter stated. One terminal is at said village of Thompson which has about two hundred and fifty inhabitants and the great majority of whom are employed by the F. & F. Lumber Co. Ltd. and he believes that if said company's business at Thompson were discontinued, not to exceed fifty of said inhabitants would remain, that this is the only settlement on said line, the other terminal being in the woods.

That said road has never carried any passengers for hire, has no regular schedule or running time or rates of charge, possesses no passenger or freight equipment, other than about fifty logging cars, six freight cars, two cabooses and three locomotives, that the value of said road for use in connection with said lumber business, including equipment is approximately fifty thousand dollars, and for use other than incidental to said business the road is simply valuable as scrap iron.

That it is the present intention to take up said road and it will undoubtedly be taken up as soon as the timber in the locality where it is situated belonging to or purchased by said company is removed.

That freight has in a number of instances been carried for persons other than the owners, being limited to forest products and upon a special contract in each instance, and the total income therefrom during the present ownership, five years has been about five hundred dollars.

588 Said road is only operated to suit the convenience of the owners and on days on which the lumber business of the company does not require it, no trains are run, and the said road is constructed entirely upon a private right of way.

HARRY D. NORRIS.

Subscribed and sworn to before me this eighth day of July, 1903.

JOHN PATTERSON,

Notary Public.

Q. Did that affidavit state the true condition of affairs when it was given.

A. Yes sir as near as I knew.

Q. Do you know when this road was acquired by the F. & F. Lumber Company?

A. It was in 1899, if I am not mistaken.

Q. At the same time the lumber business was acquired?

A. Yes sir. From the Delta Lumber Company.

Q. What was the Delta Lumber Company?

A. I believe it was a corporation.

Q. There was no separate purchase of this railroad?

A. Lumped in as a part of the lumber business.

Q. That village of Thompson is a small settlement on the line of the road.

Mr. BUTTERFIELD. Objected to as leading.

A. Yes it is a little settlement.

Q. There are small lumber camps along the line of road are there?

A. Yes sir.

589 Q. What are these?

A. The nearest one we called Big Spring.

Q. Was this camp in active operation?

A. No. For a time it would be occupied and then for a time vacant.

Q. When it was used, was it used for the purpose of getting out lumber for the F. & F. Lumber Company?

A. No, sir, we never had a camp there.

Q. Was it a logging camp?

A. Yes sir.

Q. Were the logs purchased by your company?

A. No. We never got any except cedar timber.

Q. Would you purchase at the camp or the mill?

A. At the camp before they were manufactured.

Q. That was true of every thing that was taken out by your company?

A. Yes.

Q. The next camp?

A. The next point on the road we called "Pull Up."

Q. What was this?

A. It was a place on the bank of the stream where we pulled the logs out of the river.

Q. The next point.

A. The next point was out at section # 22. This camp was destroyed before 1902.

Q. The next point?

A. The next point was camp "Forty-one." That was our own camp.

590 Q. All of those you supported for yourselves you need not mention. Are there any other where you took logs from them for the purpose of shipping to your mill during 1902 or at a previous time?

A. Before that time, in 1899, we carried some from camp 22, some cedar products for other people.

Q. Did you carry anything for the Chicago Lumber Company?

A. No sir.

Q. Did you have a contract to carry lumber and timber for any one?

A. When I came there was a contract with these people to carry products.

Q. When was that contract made?

A. We made a contract with them in April or May of 1903, but did not commence hauling any of the products.

Q. At the time you gave this affidavit you had carried nothing for the Chicago Lumber Company.

A. No sir.

We had sold out before we done any of their work.

Q. Was there a man by the name of Petersen, who did some logging for you?

A. He did some logging for us. He worked for us.

Q. Was there a man by the name of Hickson?

A. I don't know the man.

Q. Was there a man by the name of Beaton?

A. Yes sir. The transactions with him were the same as with Petersen. Petersen worked for us and it was done entirely for us.

Q. Was there a man by the name of Rocksbury?

591 A. We carried nothing for him.

Q. Are there any other settlements or camps on the line of the road from which you carried for other persons other than yourselves the F. & F. Lumber Company?

A. I believe that we pulled a few carloads of stuff for a party by the name of Quinlan. We didn't buy his products.

Q. When was that?

A. It was in 1902 or 1901.

Q. The final terminus of this road was in the woods?

A. Yes sir.

Q. At Thompson what is the population?

A. I should say about 250 people.

Q. What is the occupation of the most of the residents, I mean the male residents?

A. The male population are employed by the company mostly and work in the mill.

Q. Suppose the lumber business of this succeeding company were taken away, would it still be a thriving settlement?

A. No I don't think so.

Q. Wouldn't it be practically abandoned?

A. Yes I should say so.

Q. You say that the F. & F. Company have sold this lumber business and with it this road?

A. Yes.

Q. Whom did you sell it to?

A. The style of the new firm is "The Thompson Company Limited." I will give you the names of some of the parties.

Q. Just state them.

592 A. Fred Cooper, C. B. Mersereau and Dr. Cole.

Q. This is a limited partnership?

A. Yes I think it is.

Q. Now considering the location of this road and the surrounding conditions of the settlement would you say that it was so situated as to be adapted to the business of passenger traffic and freight.

Mr. BUTTERFIELD: I object to that as immaterial and calling for the opinion of the witness.

A. I think it would not. It is a logging road. There would be nothing to carry.

Q. Did the F. & F. Lumber Company while it owned the road hold itself out as a carrier of passengers and freight in general?

A. They did not.

Q. Did the road ever carry any passengers during the period that you were connected with it?

A. We carried passengers, but not for hire except the last two months. That was when we began charging fares.

Q. You had not charged any fares up to that time?

A. Not to my knowledge.

Q. And if anything was collected or charged by the conductor it was not by your order and was not turned in to the office?

Mr. BUTTERFIELD: Objected to as leading.

Mr. WYKES: I will withdraw that question.

Q. If anything was collected by any of the men in charge of the train it was not turned in to the office.

593 A. I would like to say that I was not connected with the company for the first four or five months. During my connection with it, up to the last two months before we sold out we did not carry passengers for hire and didn't collect any fares.

Q. Do you know what this road is assessed at?

Mr. BUTTERFIELD: Objected to as immaterial.

A. I believe at about \$1000.00 per mile for the road bed and something added for personal property, cars and locomotives; I don't know what that is.

Q. About what would the entire road with its equipment be worth?

Mr. BUTTERFIELD: Objected to as immaterial and incompetent.

A. The road, I should say—well that is hard to estimate; I should say that is worth \$25000.00.

Q. And would not exceed \$50000.

A. No sir.

Q. If used as at present equipped.

Mr. BUTTERFIELD: Objected to as leading and suggestive.

A. Yes.

Q. And other than its connection with the lumber business it wouldn't be worth much?

Mr. BUTTERFIELD: Objected to as immaterial.

Q. The lumber business of this particular company that operates the road?

Mr. BUTTERFIELD: Same objection.

594 A. There is a value to it, to sell the cars, its second hand cars, if that is what you mean.

Q. Yes, that is what I mean.

A. I don't know the value of it.

Q. Is it worth any more than simply the value of the materials scrapped, other than as used in connection with the business of the lumber company?

A. Of course at the present time it is of value in connection with the hauling contract the persons owning it have with the Chicago Lumber Company.

Q. Aside from that, what is its value?

A. It would possibly be \$20000.00 in my estimation.

Q. Where you have carried freight during your ownership it was not on a line of schedule prices?

Mr. BUTTERFIELD: Objected to as leading.

A. We did nothing for any schedule prices; it was all special contracts.

Q. You had not schedule of freight prices or passenger fare?

A. When we carried passengers for the last two months we did have a schedule which we followed.

Q. Would the trains of this road run at times other than to satisfy the convenience of the F. & F. Lumber Company's business?

A. No sir. They would just run at our own convenience; anybody who wanted to ride when the train was ready to go, we let them ride and charged them a nominal fare for riding.

Q. State the equipment this road owned?

A. They owned three locomotives, one thirty ton weight;
595 the next size was probably eighteen to twenty tons weight, and a small locomotive used as a switch engine possibly five to eight tons.

Q. Did you purchase these new?

A. No sir. They were all there at the time we bought from the Delta Lumber Company.

Q. Now the cars?

A. Forty-nine Russell logging cars, six or seven flat cars, two cabooses and one box car and some hand cars.

Q. Any passenger cars?

A. No sir. They would have to ride in the caboose or on the engine.

Q. Did you at one time employ a man by the name of William Casey?

A. Yes, he was our mill foreman.

Q. Was he in a position to know the details in regard to the conditions surrounding this railroad?

A. His business had nothing to do with the railroad work. He only kept the time of the mill men.

Q. He had nothing to do with the transactions over the railroad.

A. No sir.

Q. Was he in a position to know whether or not you charged fares?

A. Only from hearsay.

Q. Did you discharge him?

A. Yes sir.

596 Q. Can you remember when?

A. Sometime in September or October. Less than a week before he went to Lansing.

Q. Did the F. & F. Company have any traffic arrangement of any kind with any other company?

A. We had a connection with the Manistique, Marquet and Northern road. Our track simply connected with their track. We had no connection with any road, except the Soo line.

Q. Take the case of the Manistique, Marquet and Northern would their shipments for other persons pass over your line and their line?

A. No sir.

Q. Were there any straight shipments for other persons over your line and the Soo line?

A. I believe not. I might modify that and say that we did pull an occasional car load of merchandise for the store-keeper. We used to let him haul his hay. We would charge the store for that. We owned the store.

Q. Did that occur frequently?

A. It would average a car a month.

Q. Was this road stationary during all the time you owned it?

A. The most of the main line was permanent the other end was shifted quite often.

Q. How much of the line was permanent?

A. About twelve miles.

Q. You understand the condition that still exists there,
597 how much of it will continue to be shifted to the care of the logging business?

A. There are about eighteen miles that will be permanent while they are doing that work for the Chicago Lumber Company.

Q. Did the steamboats land at Thompson?

A. There was one line of steamboats that carried freight and passengers that landed there.

Q. Did they have a dock?

A. They landed at our dock.

Q. Did your railroad run into the dock?

A. Yes sir.

Q. Did you transport over your line for other persons freight that was hauled by the steamboat?

A. Our switch engine carried the freight from the dock to the ware house for the storekeeper.

Q. It was limited to what the storekeeper had brought?

A. No, there were two or three saloons in the town that brought in a few liquors and other things.

Q. What was the length of this haul over your line?

A. It was about forty rods.

Q. The entire carriage of freight for other persons during the five years previous to the time you made this affidavit didn't exceed what amount?

Mr. BUTTERFIELD: I object to that as immaterial.

A. I couldn't just say. I would have to go to the books to look the matter up, I couldn't say positively now how much it was.

Q. It might be anywhere from \$500.00 to \$1000.00, it 598 wouldn't exceed \$1000.00?

A. I wouldn't swear that it wouldn't.

Q. Would your train run with regularity?

A. When we were hauling logs we would generally make two trips a day, but we didn't run on time schedule.

Q. Were there certain season- you didn't make any trips at all?

A. Yes, two or three winters we didn't have a train out for three months at a time. Quite often we didn't have a train out for a week or ten days.

Q. Would that ever occur in the summer?

A. Yes. There would be times when we were not hauling logs and didn't have a train over the road at all.

Q. That is all.

Cross-examination.

Mr. BUTTERFIELD:

Q. When did your company purchase the railroad?

A. I think it was in 1899, November. No I think it was in 1898.

Q. When did you first become superintendent of the railroad?

A. About the middle of July of the following year.

Q. You continued to be superintendent from July 1899 until about October 1903?

A. Yes.

Q. Were you superintendent up to the time the property was sold to this new company?

599

A. Yes sir.

Q. Were you in Michigan until that sale took place?

A. Yes sir.

Q. Where were your headquarters most of the time?

A. My headquarters were in Thompson.

Q. You were not at Grand Rapids much of the time?

A. No sir.

Q. The condition at Thompson, is that a town or a village?

A. It is not a town, it is a small settlement.

Q. No village government?

A. No it is a part of the township. The chief political officer there is the supervisor.

Q. The settlement, as I understand you is located on the shore of Lake Michigan?

A. Yes sir.

Q. How many years has there been a settlement at Thompson to your knowledge?

A. I don't know; I should say sixteen or eighteen years or thereabouts before we moved in.

Q. At the present time there has been a settlement at Thompson for some twenty-five years?

A. Yes sir.

Q. In the year 1902 and about the month of April, I wish you would state the number of business institutions that were there, which were not connected with the business of your mill.

A. There were three saloons, a meat market, there was a little corner grocery.

Q. In the country store it was what is generally known as a general store, you kept all sorts of supplies, tools, grain, provisions, and hardware?

600

A. Yes sir.

Q. Had the F. & F. Company any interest in the meat market?

A. No sir.

Q. I presume, of course, it had no interest in the saloons?

A. No sir.

Q. Was there a postoffice at Thompson?

A. Yes sir.

Q. Would you say for how many years there had been a postoffice there?

A. I can't say.

Q. What was the size of the settlement in 1902 in comparison with what it was when you first went there?

A. I don't think it had grown any.

Q. I take it that the men who were employed by your company, had previously been employed in the same capacity by the Delta Company?

A. Yes sir.

Q. What was the average output at your mill during the time that you were in charge of it?

A. From eighteen to twenty million feet a year.

Q. Where was the bulk of it shipped after being manufactured?

A. To the Chicago market by boat; the bulk went to Chicago, some of it went East.

Q. Such of it as went East went practically where?

A. Buffalo, Bay City, Albany, New York.

601 Q. To each of these places you have named it went by boat?

A. Yes sir.

Q. What was the name of the steamboat line to which you have referred, that made regular landings at Thompson?

A. The Hart line.

Q. Where did these boats run?

A. They ran from Green Bay to Mackinaw, Charlevoix, Soo, Potoskey.

Q. Did the boats land freight and passengers at Thompson?

Mr. WYKES: I object to this line of questions and testimony as immaterial.

A. Once in a while they landed a passenger at Thompson.

Q. Were those passengers destined to some other point north of Thompson?

A. Maybe one or two miles up for a logging camp.

Q. Was there any other railroad line at Thompson?

A. No sir.

Q. You had a branch line from Thompson along the lake shore to South Manistique?

A. Yes that was about four miles.

Q. The next market of importance to the market to Thompson was at South Manistique?

A. There was no market there.

Q. During your time there was not a settlement in the place?

A. No sir.

Q. Where was the next place larger than Thompson where people could buy household supplies?

A. Manistique.

602 Q. How far was that from South Manistique?

A. About three miles.

Q. On what railroad?

A. Two roads, the Soo line and the Manistique, Marquet and Northern.

Q. If any person landing at Thompson had occasion to travel to Manistique it was a natural thing to go over your railroad to South Manistique.

Mr. WYKES: I object to the question as calling for a conclusion. I will object to this entire line as immaterial.

A. No sir.

Q. How would they get there?

A. There was a steamboat line running from Thompson to Manistique. And livery rigs, most every body drove; we didn't connect with any train. There was a stage line.

Q. What was the charge on the stage for a person to go from Thompson to Manistique?

A. I think \$.50 a person.

Q. Did passengers in your employ ever ride on your road from Thompson to South Manistique?

A. Yes sir.

Q. What was your charge?

A. I think it was in the last two months 15c. from South Manistique to Thompson.

Q. What was it before that?

A. It wasn't anything.

Q. I understood that you didn't run trains very often, only spasmodically, only when you had logs.

603 A. We didn't run trains from South Manistique to Thompson regularly. There were many days when no train was run.

Q. Was that branch in existence when you bought in there?

A. Yes sir.

Q. And if the storekeeper or saloon keeper or anybody else had freight coming to Thompson by the way of the Soo line or Manistique, Marquet and Northern it was your custom to haul it in for them over that branch?

A. Only in car lots.

Q. Was there a charge made for that?

A. Three dollars a car.

Q. What other freight came in in car lots, came in by Delta Junction?

A. Yes sir.

Q. Did you understand what the charge was?

A. Three or four dollars a special charge per car.

Q. Did that include the return of the car to Delta Junction?

A. Yes sir.

Q. Did your cars ever go on the Soo line?

A. No sir never.

Q. Did your cars ever go on the Manistique, Marquet and Northern road?

A. Yes.

Q. In those cases how far did they go?

A. I guess they hauled logs for, say thirty-five miles away. Our pull was from our camp to South Manistique.

Q. At Delta Junction did your line cross the Soo line?

A. Yes sir.

604 Q. What protection was established at the crossing?

A. There was no protection except that we stopped trains at the crossing.

Q. Did the Soo line trains stop?

A. Yes.

Q. Do you know whether that protection was ordered by the commissioner of railroads?

A. I don't know.

Q. And all the Soo line trains stopped at the crossing?

A. They were supposed to.

Q. Was there any guard what ever?

A. No sir.

Q. By your line the first place you would reach going north was Big Spring.

A. Yes.

Q. How many people were living at Big Spring camp during the year 1902?

A. About one dozen people.

Q. Does that include the entire gang that was employed there?

A. Yes.

Q. Was the work at Big Spring going on then as fully as at any time?

A. Yes.

Q. It wasn't very much of a camp?

A. No.

Q. Whatever was hauled from there, excepting only the cedar, you hauled for other people.

A. That was the only thing was hauled from there, was
605 the cedar products we bought ourselves.

Q. Then it is true there was nothing hauled from that camp except what belonged to your company?

A. Yes.

Q. How far was that from Thompson?

A. About eight miles.

Q. Was the same thing true at Pull Up?

A. Yes.

Q. But at No. 22 there was some shipments hauled for other people?

A. Yes.

Q. Was it ever in less than car loads?

A. No.

Q. What was the rate per car load?

A. Three dollars per car.

Q. The same rate that you charged?

A. We had to carry out a contract that had been made by the Delta Company before we went in there.

Q. Then I take it your reason why the charge of three dollars was made was because of the contract that the Delta Company had made.

A. I guess that was right.

Q. How many men were employed at No. 22?

A. From twenty-five to forty men at that time.

Q. Did these men ever go down to Thompson? or any other place on your road?

A. Yes.

606 Q. Any charge ever made?

A. No sir.

Q. Where did they ride?

A. They rode in the caboose or in the engine.

Q. Did you have a conductor on the train?

A. Yes.

Q. Did he have any badge or cap or other mark to indicate his position as conductor of a train?

A. Sometimes a hat band, but very seldom.

Q. How about the camp supplies and tools that had to go back and forth, were they carried free?

A. No we charged them for carrying the freight.

Q. What was the rate for carrying supplies?

A. From 12 to 15c. per hundred.

Q. Who received the freight money for transportation?

A. The cars were loaded up and unloaded and the conductor would get the weight from the storekeeper.

Q. No billing was ever made.

A. No sir.

Q. When you said there was no charge made for carrying passengers to #22, did you say that because the company never received any money for it, or do you know that the conductor himself never collected any money.

Mr. WYKES: I object to that as immaterial and incompetent.

A. I suppose that would be possible.

Q. No fare was turned into the office and he had no authority to collect fares?

607 A. Yes sir.

Q. The business developed to such an extent that before you left you inaugurated a system of charging for the transportation of passengers.

A. Not entirely on account of the development in business but because of the drunks working for the Chicago Company who were going down and up all the time. They had a gang of men in their camp that always wanted to be carried through.

Q. I understood you to say that up to the time that the Chicago Lumber Company began its operations the only camp along the line that was operated by other people, was camp No. 22?

A. Yes except the jobbers I mentioned before.

Q. Then as soon as there came into the woods any company with which you had no contract relations whatever you began to make a charge for hauling passengers to that camp?

A. We were forced to it.

Q. You stated in this affidavit that you read that this equipment and railroad was worth approximately \$50000.00?

A. Perhaps so. If used in connection with lumber business.

Q. At the time you sold out you considered the road and its equipment was worth \$50000.00

A. I wouldn't say that for we didn't get that for the road.

Q. Well then do I understand that you want to modify what you said in your affidavit in this respect.

A. What I meant to convey when I made that affidavit was that the road while we had a lumber business to keep it going was worth that amount of money.

608 Q. I suppose that as business men it was your purpose in the operation of the railroad to make it yield as much income and benefit to your company as you could.

Mr. WYKES: Objected to as immaterial.

A. Yes sir.

Q. It was your intention to make the railroad be as much a benefit to your business as was possible, that was what you had it for, a source of revenue?

A. We didn't consider that as one of the sources of revenue?

Q. Whenever it was possible that a lumber proposition from which there was to be a large amount of revenue, could be found, you availed yourself of the opportunity?

A. Whenever we considered it would benefit out company, yes.

Q. I suppose to that extent it was just like any other railroad that was used for a similar purpose?

Mr. WYKES: I object to that as calling for a conclusion.

A. I don't know much about any other railroad. I was never connected with anything but a logging railroad.

Q. Did you ever have any connection with a logging railroad that was operated by a railroad company?

A. No sir.

Q. Do you know of or have you ever had an occasion to work near a railroad that was operated by a railroad company so that you personally had an opportunity to observe their method of doing business?

Mr. WYKES: Objected to as immaterial.

A. Yes.

609 Q. What road?

A. That was the G. R. & I R. R. over which road we shipped all of our lumber at one time.

Q. Do you remember the name of the branch?

A. It wasn't a branch, it was a part of a main line.

Q. How did you get them to the railroad or main line?

A. We had a number of our own tram cars from our line to the G. R. I.

Q. I understand that there — a large number of what are known as logging branches of railroads in Michigan which are owned and

operated by railroad companies as a part of their railway system, and I would like to know whether you have observed the method of doing business of any of these branches.

A. I never had any connection with any of these.

Q. I mean have you ever had occasion to do or observe the lumber operations as they are done and carried on these branches.

A. I have observed them in a general way.

Q. Is there any material difference between the method that was made use of in operating your road for the business that you had to do and the method made use of in operating a similar logging branch by a similar company?

Mr. WYKES: I object to that as immaterial, as calling for the conclusion of the witness and on the further ground that the witness had not shown knowledge for the conditions under which railroad companies operating logging roads do business.

610 A. I should say there was every difference in the world.

A railroad company operating any kind of a road should have everything in system. When there was little business to be hauled it was a matter of bother and not a matter of revenue to us.

Q. You did expect to receive revenue from the business done for the Chicago Lumber Company?

A. Yes sir.

Q. What was the reason you discharged Casey?

A. On account of intemperance.

Q. Up to the time you discharged him you paid him \$1200.00 a year?

A. At the time we discharged him he was drawing \$1200.00 a year. It was more than he was worth because he got drunk very often.

Q. Did you every think he was dishonest?

A. No sir.

Q. That was your only objection that he was intemperate?

A. Yes.

Q. If Casey says that he himself more than once had ridden on your railroad and had paid money to the conductor for his fare, you have no reason to doubt the truth of his statement?

A. It would depend on the time that he rode, if it was during the time previous to the last two months that we owned the road, I would doubt his word.

Q. You had been charging fares two months previous to the discharge of Casey?

A. About six weeks.

611 Q. And you adopted a schedule of fares from Thompson to South Manistique and then you equipped the conductor with a cap and punch and issued tickets?

A. Yes.

Q. Do you know whether that is still being done?

A. Yes I believe it is.

Q. The Chicago Company had a large quantity of logs or skids before you made a contract to haul?

A. No sir.

Q. Was your contract made before there was any cutting at all?

A. Yes.

Q. When did you say the contract was made?

A. I think in April or May.

Q. The railroad was a standard gauge?

A. Yes.

Q. And constructed in all respects as other logging branches with "T" rails and cross ties, spikes, fish plates?

A. Yes.

Q. The locomotives were of standard type for the size that you needed?

A. Railroad people would call them "Back numbers."

Q. They were bought from some steam railroad?

A. Yes second hand.

Q. The Russell cars just describe them?

A. They are an eight wheel car, two flat wheel trucks; the reaches were 22 feet long, no platform; the logs were held on with pins and chains.

612 Q. These Russell cars are a standard make used on a great many logging roads.

A. Yes.

Q. Was the box car a standard car?

A. It had eight wheels, was home made.

Q. What were the flat cars?

A. Home made.

Q. What was the caboose?

A. Home made had eight wheels.

Q. In the winter time you didn't run a train and the reason was because the snow was so deep you couldn't?

A. Well that didn't have any effect.

Q. Was it because the camp would shut down for a time?

A. No, but sometimes there were no logs to haul.

Q. That is all?

Redirect examination.

Mr. WYKES:

Q. At camp No. 22 I understood you in your direct examination to say that operations there were completed before 1902?

A. Yes.

Q. The carriage was limited to forest products, with the exception of camp supplies?

A. Yes.

Q. During the year 1902 were you logging up in the Manistique Marquet and Northern?

A. That was so to some extent.

- 613 Q. You were not doing it continually ?
 A. No sir.
 Q. During that year there would be any number of months when you did not do it ?
 A. Yes.
 Q. Was there anything to call passengers up on the main line during the year 1902 other than the Chicago camp ?
 A. That was our own camp.
 Q. Now the fare schedule that you adopted was limited to persons going to your camp and the Chicago Lumber Company.
 A. Yes.
 Q. That is all.

Recross-examination.

Mr. BUTTERFIELD :

- Q. In the case of sightseers going to Big Springs were they carried free ?
 A. Yes.
 Q. And they were always carried when they wanted to go ?
 A. Yes, if they didn't overcrowd us.
 Q. That is all.

614 THOMAS FRIANT, witness produced on behalf of the defendant, being first duly sworn by said notary, testifies as follows :

Direct examination.

Mr. WYKES :

- Q. Where do you reside Mr. Friant at the present time ?
 A. Oakland, California.
 Q. You are connected with the F. & F. Lumber Company of Michigan ?
 A. Yes I was.
 Q. And you were connected in what capacity ?
 A. I was a member of the co-partnership and manager of the company. I was chairman under the law under which we were working, I had the general management of the whole thing.
 Q. Did you have personal knowledge of the character of the business of the company.
 A. I did.
 — And knew the amount of transportation for others and for your own company ?
 A. Yes.
 Q. You knew as to its arrangements with any other persons for carriage ?
 A. Yes.
 Q. You heard Mr. Norris's testimony, is it true ?

A. It is true except in regard to the rate on the special contract of the Delta Company. Mr. Norris said it was three dollars
615 per car. It should have been four dollars. I don't think Mr. Norris ever saw the contract.

Q. Understanding the surrounding conditions of this road and its situation, would you say that it was adapted for the carriage of passengers and freight?

Mr. BUTTERFIELD: Object to that as incompetent and immaterial and calling for an opinion.

A. No sir.

Q. Did the F. & F. Lumber Company during the time it was owned and operated by you hold itself out generally as a carrier of passengers and freight?

A. It did not.

Q. Did it have a regular schedule of fares and freight prices?

A. It did not except during the last two months of its existence and then only a passenger schedule.

Q. When you carried freight you did it how?

A. That depended on the kind of freight.

Q. I mean for other persons. And I will ask you now the question when you carried freight for other persons it was under a special contract was it?

A. Yes.

Q. Are the majority of the persons living in the village of Thompson employed by the F. & F. Lumber Company?

A. When we owned it they were practically all, perhaps six or eight people did not.

Q. So practically there would be no settlement there if it were not for the business of this company?

616 A. No I should say not.

Q. Are there any other settlements on the line of this road?

A. No sir.

Q. Is the road valuable for any purpose other than its connection with the lumber business?

A. It is to sell. It is worth something to take up and sell.

Q. Has it any further value further than its use as a part of a lumber business.

A. None whatever.

Q. Was the road operated at any time to suit the convenience of persons other than the F. & F. Lumber Company?

A. Never for one single moment.

Q. You didn't regard yourself as being in the railroad business?

A. We did not.

Q. It was operated as incident to use in connection with your lumber business only?

A. Yes.

Q. The road is constructed over a private right of way?

A. It is. We own the right of way.

Q. Originally it was constructed entirely for the traffic of the Delta Lumber Company?

A. It was.

Q. The road shifts from place to place to do the business and to take the timber in the most convenient way?

A. Yes sir.

Q. The permanent roadway is limited to how many miles?

617 A. A distance of about twelve miles from Thompson to Pull Up.

Q. There is a further distance that will be practically in a shifting condition during the operations of the Chicago Lumber Company.

A. Yes sir. Seven or eight or ten miles.

Q. That will be shifted practically after the operations of the Chicago Lumber Company?

Mr. BUTTERFIELD: Objected to as immaterial and incompetent.

A. Without a doubt.

Q. When the company fixed a rate for passengers it didn't intend to go into the railroad business?

Mr. BUTTERFIELD: Objected to as leading and suggestive.

A. We did not.

Q. Was it intended to keep down the number of passengers?

Mr. BUTTERFIELD: Same objection.

A. That was the intention.

Q. Was it intended as a source of income?

A. No sir.

Q. That is all.

Cross-examination.

Mr. BUTTERFIELD:

Q. Do you mean to say that the purpose of your company in establishing a schedule of rates for passengers was to prevent passengers from riding on your train?

A. Yes I do. There was such a desire for travel.

Q. Your intention in fixing a charge and establishing a rate and issuing tickets and giving your conductor a punch was to prevent people from riding?

618 A. Yes. That is what I meant to say.

Q. They still persisted in riding?

A. So far as that I have no personal knowledge, I wasn't there during the last two months.

Q. How long before the passenger fare was established did you leave there?

A. It was about that time.

Q. Were the passenger fares established as a result of any meeting of the board or members of your company?

A. No sir. I had everything to do with it.

Q. Any body connected with the company have anything to say about establishing passenger fares except you?

A. No.

Q. You were the only one that had any connection with it?

A. Yes.

Q. You don't know yourself how many passengers were carried under the schedule you adopted?

A. No sir.

Q. You don't know how much the schedule was?

A. No.

Q. After the schedule was adopted and the rates fixed for carrying passengers did they still continue to ride on your train?

A. I couldn't tell you.

Q. How did you arrange this passenger business, did you issue a circular?

A. No I called Mr. Norris into the office and said "How are we going to prevent these drunken loafers from continually riding up and down on our train, injuring our business and getting nothing for it." He said "Why not something of this character." I called up my attorney on the telephone, Mr. Dunton, and asked him if our risk in case of accident would be greater if we charged fares than if we carried passengers for nothing. He didn't think our risk would be any greater. At once I instructed Mr. Norris to get the necessary blanks and formulate a rate of fares and have some tickets printed and had him instruct the conductor to collect fares from every one passing over our road unless he had a pass. I also instructed him to give passes to all worth-employees and all heads of the different apartments.

Q. What arrangements were made for the purchase of tickets by the people at the Chicago camp desiring to go down to Thompson?

A. None that I know of.

Q. You don't know how the schedule was worked out, whether the conductor would sell tickets on the train?

A. He would collect fares if they had no tickets.

Q. Did he have a form of receipt to give for fares collected?

A. I don't know.

Q. But the purpose of all this was to prevent passengers from riding on the train.

A. That is true.

Q. It was to prevent all transfer of passengers?

A. I can't answer that without explanation.

(Mr. WYKES: Make your explanation, Mr. Friant.)

620 A. As a matter of fact the laboring men for the past year and a half have been very restless in that locality, they would go into camp and work a day or two, earn from five to ten dollars;

ask for their pay; come out and spend the money for drink, get drunk and go back to camp and work a few days longer. That is the character of passenger traffic over that logging road, it was our idea to prevent as much as possible and that is just why we established that rate. A lot of drunken men on a train, a lot of men coming in and out, all together was a detriment to our business and a bother to the trainmen.

Q. I understood Mr. Norris to say that this arrangement was adopted with reference to the Chicago Company's camp.

A. That is true with reference to the men working for the Chicago Lumber Company.

Q. Now isn't it true that the underlying purpose of the arrangement was to increase your own business and your own revenue.

A. Yes.

Q. You state that the transportation of freight for outsiders was always on a special contract?

A. Yes.

Q. Do you mean that in case a carload was brought in for the saloon keeper, that you made a special contract?

A. Never did such a thing happen.

621 Q. Didn't you bring in food and provisions for the storekeeper?

A. That was entirely delegated to the man who ran the store, but it was very small.

Q. How about carloads of freight coming from Delta Junction for other people?

A. It didn't come for other people; for ourselves, we owned the store.

Q. You got something from them for the freight?

A. Yes.

Q. As to this you had a uniform rate you charged up the store with, three dollars for every car?

A. Yes.

Q. You didn't enter into a contract for every car?

A. No.

Q. You stated that the road is not adapted to the business of a railroad.

A. I don't think so.

Q. You say that the road, taking into consideration the situation and surroundings, is not adapted for the business of carrying freight and passengers generally?

A. Yes.

Q. It is adapted, is it not for the purpose of doing all the business, all the railroad business there is to do?

A. Yes.

Q. If it should happen that up at Big Springs or at the Chicago camp, there should be discovered a copper mine or a great city should grow up there, the F. & F. Company's road would be adapted to all the business that came its way.

Mr. WYKES: Objected to as speculative.

A. The road is built for a special purpose; built with cross ties, fish plates; there is not a single bridge could stand the test of the State examiner. There is not an air break on the road. The road bed is all right; twenty-five or thirty pound rails. The bridges have not a single guard rail, are not constructed in accordance with the regulations for regular line roads. There is not an air break on the line, never was. No passenger coaches; nothing except Russell cars and cabooses. It is not adapted at all to the conducting of a general railroad business, but for special logging purposes only.

Q. It is adapted, is it not for all business that it has ever been able to get?

A. It has never made it an object to get any outside business, except the contract with the Chicago Lumber Company.

Q. The business of the Chicago Lumber Company is the first business you have seen that you thought it was an object to get?

Mr. WYKES: I object to arguing with the witness.

A. No sir.

Q. What other business has there been that you thought would be an object in getting, that you didn't get?

A. This question requires a long answer. There is three million feet of logs just above Pull Up. They were anxious to have
623 me name a price for pulling logs over this road. Charles Ruggles of Manistee was exceedingly anxious that I should name a price upon the entire branch. Boniface Brothers owned a mill and they have been anxious that I should haul over the road for their mill these past two years. Mr. J. M. Valentine two years ago tried to enter into an arrangement with me to haul cedar, hemlock, bark and logs over the road. There are a number of others who have within the past five years desired to enter into an agreement with the F. & F. Lumber Company to haul their products over the road, but knowing that our own private business required all the cars and locomotives and capacity of the road, we have refused to enter into any such agreements.

Q. You mean by that in order to have transported provisions and forest products for the various persons, it would have been necessary to add to the equipment?

A. Yes, and add to the road as well.

Q. You couldn't figure that there would be sufficient compensation in the business in sight to warrant the expenditure of money to add to the road?

A. Yes perhaps that is the reason.

Q. That is the reason why you have refused these men a price?

A. No sir that is not the reason.

Q. Do you mean to say that you could see there was something in it for the F. & F. Lumber Company and you would still refuse to do the business?

A. Yes.

624 Q. Did you assign to these men who made these offers, did you tell them that was the reason because you had got to increase the road before you could handle their business?

A. I did not; I told them it was our own business and freight. It was our business first.

Q. You reached a point where you did think you could do the Chicago Lumber Company's business?

A. Our business was not so great at that time.

Q. You didn't use your road for your own business so much?

A. Our timber was mostly all cut.

Q. Did Ruggles and Boniface Brothers bringing timber interfere in any way with your business?

A. It did not.

Q. Do you know it was of the same kind?

A. No.

Q. It came into the same market.

A. Yes.

Q. Didn't that consideration enter into your refusal to do the business?

A. No sir.

Q. There was no one else to handle it?

A. I didn't think of that. We needed the road for our own business.

Q. Did you have anything in addition to the products?

A. Yes.

Q. After all you couldn't see how it was an object for you to do it?

625 A. I wasn't a common carrier until I could see there was something in it. It was just like this. I got four mules and a wagon load of lumber. I got these mules and the wagon to deliver that timber to the next town. I meet a friend of mine on the road and he says let me ride. I do. I meet two or more friends and they say let us ride. I must deliver this lumber, but if I take these men on I can't do it; I can't accomplish my purpose. It was for the purpose of doing my lumber business that I had that road. When I got through with what was in sight, then I made the contract.

Q. Then if the position taken by the other side is true you should have taken up the road when you got the business through?

A. Yes so far as I am concerned it is true.

Q. You made arrangements and offered to sell out the F. & F. Company?

A. Yes. That was because the road was dependent on that business.

Q. When you adopted a schedule of passenger fares and charged people for riding over the road and gave instructions that nobody should be carried unless he had a ticket or a pass or paid his fare, you considered that your road was adapted to carrying the people you sold tickets to?

A. I couldn't handle them ; I was simply doing what the people were forcing me to do.

Q. If you sold a ticket for \$ 25 to a woman to go up to the lumber camp, didn't you expect to give her suitable transportation?
626

A. We haven't got a car that is suitably adapted to carrying a woman any place.

Q. You did agree to get her up there for \$ 25 ?

A. She saw the manner in which she was to get there before she bought the ticket.

Q. And you would take her up there if she bought the ticket no matter how you got her there ?

A. She would have to take what we had.

Q. The names of these people you mentioned who were anxious to make contracts with you were whom ?

A. Charles Ruggles, Manistee, Boniface Brothers, Garden Bay, J. M. Valentine.

Q. Did these men succeed in getting their timber out ?

A. No sir. It is still there.

Q. The only reason is because you wouldn't ship it ?

A. Yes I suppose so ; there are more than these.

Q. You say there is a State law that regulates the character of bridges of railroads in general, in what respect do they designate what should be done ?

A. Particularly in reference to guard rails, cross ties, keys between them. If a locomotive goes off the track that all the ties do not loosen. Then there are certain guard rails located at certain bridges.

Q. Do you know whether that is a State law or regulated by the commissioner of railroads ?

A. Perhaps it is regulated by the commissioner of railroads.

627 Q. How did you happen to get into that matter of bridges ?

A. When I suggested charging fares I asked Mr. Norris and Mr. Dunton what was necessary to make it a regularly equipped road for common carriers. And then some one told me about the bridges.

Q. As a result of all that conference did you adopt a schedule ?

A. Yes.

Q. You believed your liability to the passengers injured would be just the same when you charged fares as when you carried them free ?

A. About the same, a little difference.

Q. Has any passenger ever been injured on your road ?

A. No sir, not to my knowledge.

Q. So that the question has never come up whether you are liable to passengers as common carriers or not.

A. No sir.

Q. Did your attorney advise you that your liability was the same ?

A. I only rung him up over the telephone.

Q. Did he advise you that in order to operate your railroad for carrying passengers that you must put in these guard rails, keys and fix your bridges?

A. I don't think that advice came from him. It came from my master mechanic.

Q. When did you get notice from your master mechanic that these things were necessary in order to comply with the law?

623 Mr. WYKES: I object to all this line of testimony as incompetent and immaterial.

A. About the time we were agitating the question of fares.

Q. Was that suggestion taken up with your legal adviser as to whether or not it would be necessary as a matter of law to do it?

A. No sir. The conference was entirely over the telephone.

Q. Where is his place of business?

A. Man——

Q. What is the name of your master mechanic?

A. James Fitch.

Q. Did you have a chief engineer?

A. He was chief engineer and master mechanic both.

Q. Did you have a civil engineer?

A. No sir.

Q. If you had occasion to need one to put in a spur tract or something what did you do?

A. Sent one of the camp foreman. That was quicker.

Q. This man James Fitch, had charge of your motor power and also of your bridges?

A. Yes sir.

Q. He called your attention to the fact that there were certain requirements or some law that you had to comply with?

A. Yes sir.

Q. No action was taken?

A. No sir.

629 Q. You didn't equip any of the bridges with these keys and guard rails?

Mr. WYKES: Objected to as immaterial.

WITNESS: If these questions are being asked with the intention of bringing action against me, I want an attorney to represent me before I answer any further.

Mr. WYKES: You needn't answer.

A. I didn't.

Q. How long before this purchase of property by the F. & F. Lumber Company had you been in the lumber business?

A. Thirty years.

Q. All the time in Michigan?

A. Yes.

Q. During your thirty years' experience have you observed how railroad companies operate their logging branches?

A. I never saw a railroad company operate a logging branch.

Q. Is all your work in the upper peninsula?

A. No, some in the lower.

Q. Do you know a man by the name of McGrath in Roscommon county?

A. No, sir.

Q. Do you know the Mitchell Brothers?

A. Not personally.

Q. Do you know Magoun? He lives at Manistee.

A. I do not.

Q. Do you know Louis Sands?

630 A. I did a little business with him. Don't know him.

Q. Do you know where his operations are on the Manistee river?

A. No sir.

Q. You have never had any occasion to observe a logging branch that was operated by a railroad company?

A. None except the Manistique, Marquet and Northern.

Mr. WYKES: I object to this line of questions as immaterial and incompetent.

Q. That is a distinctly logging road?

A. No I don't think it is. It runs from Manistique to Shingleton. It runs a car and ferry.

Q. At the time you bought out the Delta Company what was the difference between your road and the Manistique, Marquet and Northern, how did it differ materially from your road.

Mr. WYKES: I object to that as immaterial and incompetent calling for a conclusion and not predicated on the knowledge of the witness, and that a comparison is made.

A. I don't think I quit- understand what you want me to say.

Q. You have said that your road was bot- adapted to carrying freight and passengers, I want to find out the difference between your road and any logging road.

A. I don't know the details.

Q. They have a regular schedule time table?

631 A. Yes. They run at certain hours each day. They comply with all the requirements of the commissioner.

Q. That is the only difference?

A. Their's a larger road, more of it.

Q. What you have just said does not apply to the road when you bought in?

A. When I first went in there five years ago.

Q. You have never taken any particular notice whether they have guard rails on the bridges?

A. Yes my attention was called to it once when I was riding with

my engineer. They are on several bridges. It was afterwards that we decided to charge passenger fares.

Q. Could you institute some comparison between your road and that?

A. No; he (my engineer) was riding in the car with me and he said "They made these people put so and so on that bridge" naming the guard rails, keys and ties.

Q. Do you know Mr. Casey?

A. I do.

Q. Did you discharge or did Mr. Norris?

A. Mr. Norris had entire control of that. I understand he did so. I was not there.

Q. Did you know that Casey was an intemperate man?

A. I did.

Q. Up to the time he was discharged, you regarded him as worth \$1200.00 a year?

A. You may take it so, it is not true for several years.

632 Q. Why didn't you discharge him a year ago?

A. Mr. Casey had been in my employ twenty years and had a family, children and wife; he was improvident. He lost his leg. I made a foreman out of him; he had never been a foreman before. He did work of foreman to my entire satisfaction for a year or so. Then he began to neglect the business. I caught him drunk once. I said to him "Your drunk." He said he was not drunk. I discovered the second year that he was not as attentive to business as he ought. That he was frequenting saloons. His wife came to me, told me he was drinking. I sent for him to come to the office, and expostulated with him. He promised to reform. I talked with Mr. Norris about him. We both recognized the fact that he was getting more and more incompetent every day. Mr. Norris thought he would have to let him go. I said "Keep him as long as you can." I had his family in mind. I learned since I came back that he was discharged. That he was maudlin drunk. We put up with him as long as we could on account of his family.

Q. That is the only reason you discharged him?

A. Yes.

Q. Did his wife live with him?

A. Yes.

Q. He has a grown up daughter, hasn't he?

A. Yes. She is in the normal school in Michigan. Whatever money they have the wife sequestered and saved it. He had been with me twenty years, perhaps more.

633 Q. Do you know where he is?

A. No, I wish I did.

Q. That is all.

Redirect examination.

Mr. WYKES:

Q. You said this road was not adapted to railroad business, is that for the reason that there is not railroad business in the vicinity?

Mr. BUTTERFIELD: Objected to as leading and suggestive.

A. Not altogether.

Q. Have you ever attempted to comply with these railroad laws?

A. No sir.

Q. You have never considered yourself subject to the regulation of the commissioner of railroads?

Mr. BUTTERFIELD: I object to that question as immaterial and move to strike it out.

A. No sir.

Q. Is it a fact that there are a number of settlements on the Manistique, Marquet and Northern railroad?

A. Yes.

Q. What is the population of Manistique?

A. Seven thousand.

Q. Shingleton. How much is that?

A. A small town. A number of hundreds. I don't think
634 so much.

Q. Has it a village organization?

A. I don't think so.

Q. Are there any other settlements along the line?

A. Yes. There are small logging camps and communities. There is Hiawatha.

Q. There is something there in connection with the camp?

A. Yes, a lodging house, a blacksmith's shop.

Q. When you entered into this contract with the Chicago Lumber Company did you intend to go into the business generally?

Mr. BUTTERFIELD: Objected to as immaterial.

A. No sir.

Q. Isn't the Chicago Lumber Company situated in practically in the same position in regard to this road to do what your company did when it was doing lumber business?

A. Yes. It is devoted to carrying their logs, ties, bark, etc.

Q. And maintained practically for the purpose of carrying the logs of the company?

A. Yes.

Q. You stated that you knew Mr. Casey, what would you — is his reputation for veracity and truth?

Mr. BUTTERFIELD: Objected to as incompetent and not a proper method of impe-ching a witness.

A. It is not good.

Q. You are acquainted with his character?

A. Yes.

635 Q. What would you say as to that?

A. That is not good.

Q. That is all.

Recross-examination.

Mr. BUTTERFIELD:

Q. Do the men who comprise the Thompson Lumber Company, have an interest in the Chicago Lumber Company?

A. I think not.

Q. Do they have any timber along the line of the road?

A. They have some.

Q. Then practically the business of the Thompson Lumber Company is in operating its railroad for revenue?

A. Yes.

Q. Do you want to be understood as saying that you would not believe Mr. Casey under oath when he was sworn and testified in a court of justice about the matter of the character, the construction and operation of this railroad?

A. Yes, I will have to say that I would not believe him under oath.

Q. You say you have not read any of his testimony given in this case?

A. No sir.

Q. Did you know it was in the papers?

A. I think Mr. White told me. He didn't tell me what it contained.

Q. Did he tell you of anything that Casey had sworn to that was not true?

A. No sir.

636 Q. You never had your attention called to any of the testimony of Casey?

A. No sir.

Counsel reads testimony of Mr. Casey beginning at page 562.

Q. Is there anything in there that is not true?

A. Yes.

Q. What is it?

A. It is not true that Frank Rocksbury, Chris Peterson or any body else having freight carried over that road for themselves. They are all employed by the F. & F. Lumber Company.

Q. Anything else?

A. Yes.

Q. What else?

A. That is no Baldwin locomotive. It is so old that no man living could find out who made it. It is a long story to tell all that is untrue in there.

Q. If there is anything very glaring you could remember it?

A. The length of the road is not true. As I remember it now he says there was about eighteen miles. It runs about twelve miles.

Q. Do you include in that twelve miles, the branch over to South Town?

A. That was never called main line. We had only twelve miles of main line up into the country and four miles to South Town.

Q. Do you think of anything else?

637 A. It is not a corporation; it is a limited partnership. The Chicago Lumber Company never had over sixty-five men in the camp. That is not the weight of the rails. There are a few forty pounds, some thirty and some twenty-five. That is something he didn't know anything about.

Q. Did the E. & F. Lumber Company in 1902 carry freight for persons other than its own company.

A. We certainly had not carried freight for the Chicago Lumber Company up to that time.

WITNESS: This question in Mr. Casey's testimony "Did the E. & F. Lumber Company in 1902 carry passengers and collect fares? A. Yes." That is not true. This question "They had a sign up in their office saying they charged a limited fare," that is not true. They had a sign up in the office. In substance it says "We are not a passenger road in any sense, because we choose not to carry passengers but if they desire to ride they go at their own risk. I wonder he gets as near the truth as he does on questions he knows nothing about. I think that is all.

Redirect examinations.

Mr. WYKES:

Q. You have read the testimony of Mr. Casey and heard Mr. Butterfield read it?

A. Yes.

Q. Did he have access to your records to get this information from?

A. No sir.

638 Q. If he swears on cross-examination that he was not discharged is that true?

A. I couldn't swear to my personal knowledge. Mr. Norris has sworn that he did discharge him and I believe it; I was not there.

Q. He says that he kept the time of the men engaged in operating this railroad, is that true?

A. That is not true.

Q. If he says that in 1901 and 1902 you carried passengers for hire is that true?

A. That is not true.

Q. That is his testimony.

Q. If he says you operated your road for the convenience — other roads without reference to your own business, is that true?

A. That is not true.

Q. That is all.

Mr. BUTTERFIELD :

Q. That is all.

It is stipulated and agreed between the respective parties by their respective counsel that the transcript of testimony of the witnesses Harry D. Norris and Thomas Friant, as made by the notary and reporter, may be read in evidence as the testimony of said witnesses, without the signatures to the testimony, they being hereby waived.

639 Proceedings of February 23, 1904.

JAMES C. McLAUGHLIN, being recalled as a witness on behalf of the defendant testified as follows:

Direct examination by Mr. BLAIR:

Q. In considering the property of the different railway companies of the State for the purpose of assessing the value thereof as a State board of assessors, state what course the board pursue with reference to such reports as the railway companies made of their credits and liabilities.

Mr. ANGELL: That is objected to as incompetent and irrelevant.

A. I don't know that we ever base or give any consideration to or base any values of railroad property on that portion of the report—in fact I think we did not.

Q. Can you state whether or not to your recollection the railway companies or any of them when present before your board for the purpose of being heard when your board was sitting as a board of review, claimed any exemptions before the board on account of their liabilities as against their credits.

Mr. ANGELL: The same objection.

A. My recollection is that no company made any such request or representation.

Q. In arriving at the valuations which were finally determined by the board after review or during the course of the review state whether or not such final determinations of value were the result of compromise or whether they commended themselves at the outset to the individual judgment of the several members of the board of assessors.

640 Mr. ANGELL: That is objected to as incompetent and immaterial.

A. In many cases the final values were not, according to the opinion of the members at first. I hardly know what you mean by "of compromise" if you mean give and take, why I do not recall anything of that kind being done.

Q. Did certain members yield their views?

Mr. ANGELL: The same objection.

A. Certain members of the board were very insistent upon the valuations of some property and other members of the board finally yielded and agreed to those valuations or approached them and the roll was signed.

Q. How was it with reference to the valuations of the Michigan Central and the Pere Marquette?

Mr. ANGELL: That is objected to as irrelevant, immaterial and incompetent, under the bill and otherwise.

A. The valuations finally reached were not the valuations of a portion of the board to start with, or in fact until the very last hours of our meeting. The valuations thought to be right by a portion of the board were very much higher in both cases than the valuation finally agreed upon.

Q. Can you state what valuations you placed on the Michigan Central and the Pere Marquette prior to these last hours that you have referred to?

Mr. ANGELL: That is objected to as before.

A. My first value or the value that I wished placed upon the Michigan Central railroad property was fifty five million dollars. I yielded a little just before we—or I yielded to fifty millions dollars just before signing the roll in the first place, I mean before the review began and finally at the last moment yielded to a cut made of forty five millions.

641 Q. At the last moment, you mean after the review?

A. Actually at the very last moment, yes sir.

Q. You mean after you went over them, after the review before the State board of assessors?

A. Just before the review began when we had to certify to the roll I yielded my opinion as to fifty-five millions and accepted fifty million; I understand that appeared as the figure against the Michigan Central road when the review opened. Then after the review when it was necessary finally to get together I yielded further and consented to an assessment of forty-five million dollars. As to the Pere Marquette my opinion of the value was in the neighborhood of thirty-five million dollars.

Q. Can you state your course with reference to that the same as you have as to the Michigan Central?

Mr. ANGELL: The same objection.

A. A majority of the board placed that valuation at thirty million dollars—no, just before we closed our assessments and had to certify our roll for the review we had agreed upon thirty million dollars. When the matter was taken up and it was insisted that that should be lowered my recollection is it was reduced to 27 and

the roll was certified for review with that property standing at twenty-seven millions; that was against my judgment, and finally on review there was a further reduction of one million dollars leaving that property at twenty-six; I think those are the figures.

Q. Was that million added onto some other roads?

642 A. No sir. There were additions made to other roads but there was no—it was not added to the other roads I guess. It was taken off of that road.

Q. Who was the member of the board of assessors who was particularly insistent upon the reduction on the Pere Marquette?

Mr. ANGELL: That is objected to as incompetent, immaterial, irrelevant and an improper question in every way.

A. Well Mr. Sayre seemed more anxious for a reduction on that road than some other members of the board.

Q. Did you have a talk with Mr. Sayre in which he stated to you in substance that if you kept down the assessed values of the roads there would be no litigation arising in consequence of your assessments, and that he could find out for you what the railroads would be willing to stand?

Mr. ANGELL: That is objected to the same as before, and it is also leading and suggestive.

A. Yes sir, there was conversation between Mr. Sayre and me to that effect.

Q. I wish you would state what the conversation was.

Mr. ANGELL: The same objection as last above.

A. Well Mr. Sayre insisted that the valuations we were likely to place upon the roads were higher than the roads would stand for and that the result would be litigation and possibly a loss of the entire tax and at one time he stated to me he could find out what assessments the railroads would be satisfied with and on what assessment they would pay the tax without litigation and he asked me if I wanted him to find out and I told him no, he need not find out for me; I didn't want to know.

643 Cross-examination by Mr. BUTTERFIELD:

I understood you to say that in the preparation of the roll which was to fix a value for taxation purposes on the Michigan Central as of the second Monday in April, 1902, your first opinion was that the value should be fixed at fifty-five millions?

A. Yes sir.

Q. But just prior to the completion of the roll for the purposes of review, in other words on or about the 15th of December, 1902, you changed your mind to some extent, or at least without changing your mind you signed a certificate attached to that roll which left the Michigan Central at fifty millions.

A. Well fifty millions was arrived at at one time but just at what stage in the proceeding I don't recollect.

Q. Was that the sum expressed on the roll at the time it was submitted to the public for review?

A. No, I think not; I think forty-six millions was the amount at review time and then we took off one million dollars on certain representations made to the board by the representative. We have had so many figures on these roads that I am not distinct as to the figure placed opposite at each particular time.

Q. But you think now that it was not fifty millions but forty-six millions at the time that the roll was opened for review?

A. I think it must have been forty-six. Just previous to that time we had reached the figure fifty million.

Q. And the forty-six you say, if that was the figure, did not represent your judgment?

A. That is right; it did not.

644 Q. And your judgment was that it should be higher?

A. Yes sir.

Q. And then I take it, it very clearly follows from that, when the final roll was signed with the valuation of the Michigan Central at forty-five million, that was still more remote from your best judgment?

A. Yes sir.

Q. And you want to be understood here now as saying that the roll which fixed the value of the railroads on the second Monday in April, 1902 did not express your judgment on the true cash value of the properties upon that roll, or some of them, and particularly the Michigan Central?

A. I mean to say if I had had my own way in these matters that some of the figures would have been different but I yielded to the arguments, etc. of other members of the board and finally consented to those figures.

Q. Did they or did they not at the time you signed that roll represent your honest judgment of the true cash value of the various properties?

A. They represented what I was willing the roll should stand at. As I have said, if I had had my own way it would not have been quite that.

Q. Did they or did they not at the time you signed that roll represent your honest judgment of the true cash value of the various properties?

A. Not my individual judgment.

Q. Now the act under which you made the assessment provides, does it not that any member of the board who should approve a roll which contains a valuation of any property at more or
645 less than he believed to be the true cash value of the property should be guilty of a misdemeanor and subject to punishment?

A. Yes sir.

Q. Then I take it according to your admission you were guilty of a misdemeanor?

A. Possibly.

Q. If it should turn out that the valuation of the Michigan Central when the roll was opened for review was forty-seven million instead of forty-six that would not change any other part of your testimony, would it?

A. No sir. I have given my best recollection of it.

Q. The fact is it was 47. You say that no consideration whatever was given to the statement by the company in the case of the Michigan Central of its debts and credits; did I understand you correctly?

A. Well, a note was made always of course of the financial condition of a road as shown by its statements of assets and liabilities.

Q. But you say no consideration was given to that subject in the fixing of the value in that road one way or the other, it had no influence upon the board?

A. It didn't influence the action of the board in finding the value of the Michigan Central property.

Q. How do you know?

A. Because I know what was talked about and what that statement showed and what the final result was.

Q. You don't know what anybody else on the board thought?

A. Except by what they said.

646 Q. But if they had reflections which they did not express you haven't any way of knowing what their reflections were?

A. No sir.

Q. All you can testify to as to what influenced the members of the board would be confined to your own case?

A. Except if a man talks one way and acts accordingly I think that he has acted his mind.

Q. But you think you are in a position to testify as to what did or didn't influence any other member of your board in reaching the valuation of the property of any road?

A. I think in these matters I was generally able to tell yes, when he made his figures and exhibited them and talked about what influenced him. We used to talk about these statements and figure what were credits and what were liabilities, etc. For instance, the statement of the amounts due from agents, we would say "that cannot be a credit because it is in the hands of the company, the company's agents, the corporation acts by its agents and the cash on hand, there is nothing to indicate whether it is cash in their own vault or safe or cash in the bank," etc.; those matters were gone over sometimes.

Q. And you say that you were able and are able now to state under oath what considerations had an influence upon the other members of the board in fixing their value on the property and what considerations had no influence.

A. I cannot say as far as that that I know all the considerations.

Q. How can you say you know any of them if you don't know all of them?

A. I know those that they spoke of when—

647 Q. (Interrupting.) You know what the members of the board said in your presence?

A. I know what they spoke of and when they act and vote accordingly I accept what they do as representing their minds.

Q. You do not undertake to say there may not have been other considerations than those that they talked about that influenced their minds, do you?

A. Oh, there may have been other considerations, sure.

Q. And there may have been a large number of other considerations, may there not?

A. I don't know how many there may have been; there may have been other considerations.

Q. You are not able to say, or are you able to say what all the considerations were which influenced your judgment in fixing the value of the Michigan Central Railroad property in 1902?

A. I am not.

Q. Then I suppose it would follow without much argument that you would not know all the considerations that influenced the other men if you don't know your own?

A. I don't know now what considerations influenced me in arriving at the Michigan Central; I think I did at the time.

Q. You think you have forgotten them, do you?

A. Yes sir. But we were speaking of that one consideration, a balance sheet as shown by the company or statements of assets and liabilities and I know that that was not taken into consideration and no additions made to the Michigan Central road on that account, on account of anything it showed.

648 Q. That necessarily involves, does it not a distinct effort on your part to testify to the mental operations of four other men when you say that you know that no consideration was given to it and that no valuation was added to or taken from on account of it—doesn't that distinctly involve an effort on your part to testify to the mental operations of four other men?

A. I didn't intend to.

Q. Isn't that the necessary result of it—how can it be possible that you know that that fact or any fact did or did not have an influence upon the valuation as fixed by four other men except that you know the reflections of those four other men?

A. I have tried to explain how those matters were taken up and considered and disposed of.

Q. You know they didn't say it had had any influence?

A. When they say it doesn't I accepted, and when they act accordingly I accepted as their mind.

Q. That is all you know about it, you don't know what they thought only by what they said, do you?

A. What they said and what they did is all I know of what they thought.

Q. You don't even know now what you thought yourself upon all the considerations influencing the value of the Michigan Central property.

A. I do not.

Q. You have spoken of two railroads as to which the figures on the roll did not represent your judgment of the true cash value, the Pere Marquette and the Michigan Central as I
640 understood you. Were there other roads in the same situation, were there other instances on the roll where the valuation finally fixed did not meet your honest judgment of the true cash value?

A. There were others where I didn't agree in the first instance with the figures finally reached.

Q. Were there any where you did not agree in the last instance?

A. There were none that I did not consent to and finally approve.

Q. Answer my question, you are a lawyer and you know what my question is and I wish you would answer it. Were there any where you did not agree in the last instance?

A. No, I agreed to all of them.

Q. Were there any cases on the final roll as finally approved and finally signed where the valuations were either more or less than your honest judgment of the true cash value aside from the two you have stated, the Pere Marquette and the Michigan Central?

A. I think there were others but the names of the companies I do not recall now.

Q. I call your attention to Exhibit E attached to the bill of complaint, being the return of the State board of assessors to the order to show cause issued by the Supreme Court upon the application of the board of education of the city of Detroit which I think has
650 been called to your attention before in this case and ask you if you signed and swore to that return in that case and to the paper, that is to the original of which the bill of complaint contains a copy.

Counsel shows paper to witness.

A. I did.

MR. BUTTERFIELD: We offer in evidence Exhibit E attached to the bill of complaint.

MR. BLAIR: We object to it as immaterial and irrelevant.

WILLIAM T. DUST, being recalled as a witness on behalf of the defendant, testified as follows:

Direct examination by Mr. BLAIR:

Q. I want to ask you whether in the course of the performance of your duties as a member of the State board of assessors in making

and reviewing the assessments upon the various railroad properties in 1902 you included or considered as an element of value in those assessed values the credits which had been returned by the various railway companies?

Mr. ANGELL: That is objected to as incompetent and irrelevant.

A. The matter of credits is not reflected anywhere in my judgment.

Q. How is it with reference to the fact whether the railroad companies or any of them made a claim before the State board
651 of assessors for an exemption for credits on account of liabilities.

Mr. ANGELL: The same objection.

A. It is my recollection that there wasn't any such claim made by anyone, any of the attorneys or any of the roads.

Q. Do you remember having signed an affidavit in relation to the deduction of those credits which was made in answer to the order to show cause?

A. I don't remember the exact language of that now, it was prepared for us.

Q. You remember having signed it?

A. I signed the paper, yes sir.

Q. Let me ask you if this is a copy of that affidavit.

(Counsel presents paper to witness.)

A. Yes sir, I think that is it.

Q. I ask you to read the last paragraph upon page 13 of that affidavit.

A. "That in assessing the property of the complainant and the said corporations subject to assessment by a State board of assessors under the provisions of act 173 these State board of assessors did not include in such assessments the credits belonging to the said complainant and such other companies; although given full opportunity to be heard before the said board of assessors acting as a board of review upon the assessment made upon its property did not make application to have its or their debts deducted from its or their credits and made no objection to the said assessment of its property on the ground that debts were not deducted from
credits."

652 Q. Let me ask you if any other member of the State board of assessors signed this affidavit with you?

Mr. ANGELL: I object to it as not the best evidence.

A. Mr. Freeman.

Q. And it was properly sworn to by both of you?

Mr. ANGELL: The same objection.

A. Yes sir.

Q. Do you remember what valuations were placed by yourself upon the Michigan Central and the Pere Marquette prior to the beginning of the review?

Mr. ANGELL: I object to it as immaterial, irrelevant and incompetent.

A. The very first figures before we finally — my own individual figures?

Q. Yes sir.

A. I think I can.

Q. I should like to have you state, if you can.

Mr. ANGELL: The same objection.

A. The Michigan Central was fifty one or fifty two millions and the Pere Marquette thirty-six.

Q. Thirty-six?

A. Somewheres along in there, yes sir.

Q. When were those figures changed?

Mr. ANGELL: The same objection.

A. They were changed the last evening before the review was had.

Q. The last evening prior to throwing them open for review?

A. Yes sir.

Q. How did they come to be changed at that time?

553 Mr. ANGELL: The same objection.

A. Through argument by some of the members and a desire on the part of myself to compromise with the other members of the board and agree on a value.

Q. State whether or not it was in accordance with that desire to agree so that the first assessment made by the board should have all the signatures of the members of the board or because your judgment was convinced that you signed that change.

Mr. ANGELL: The same objection.

A. I consented to the figures as finally fixed feeling myself as not entirely and solely able to value this vast property, and having full confidence in the other members of the board and in their judgment and their honesty, that possibly I might be mistaken and that the values as placed and argued for by some of the other members were likely as near true as mine were.

Q. You have remained a member of the State board of assessors since that time and you are now a member of the State board of tax commissioners and State board of assessors?

A. Yes sir.

Q. Have you recently completed an assessment roll for these same properties?

A. Yes sir.

Mr. ANGELL: That is objected to as incompetent, immaterial and irrelevant.

Q. From the experience which you have had and the investigations which you have made in the valuations of the properties of these railways, will you state whether or not in your opinion the assessment of the Pere Marquette and Michigan Central as made in 1902 was low or high.

654 Mr. ANGELL: That is objected to as immaterial and irrelevant.

A. Low.

Q. State whether or not the arguments which were made in 1902 with reference to the change of value, which as you recollect approximately you had fixed at 52 add 36 respectively for the Michigan Central and Pere Marquette, the arguments on behalf of the supporters of the change were calm and dispassionate or to the contrary.

Mr. ANGELL: That is objected to for the same reason as before.

A. Sometimes they were calm and again they were not.

Q. Were there any threats or was any intemperate language used by other members of the board of assessors for the purpose of bringing about a reduction?

Mr. ANGELL: The same objection.

A. Not towards me, no sir.

Q. Towards others in your hearing?

Mr. ANGELL: The same objection.

A. Yes sir.

Q. State what they were please.

Mr. ANGELL: The same objection.

A. Why I remember of one remark made by a member to Mr. Jenks in which the gentleman—the member—said “By God, I won’t vote with the minority on this board all the time, I want you to understand there will come a time when I will be voting with the majority”.

Q. Who was the member that made that statement?

A. Mr. Sayre.

655 Q. Mr. Jenks at that time was a member of your board?

A. Yes sir.

Q. And Mr. Jenks’ term was about to expire, was it?

A. Yes sir.

Q. Was Mr. Jenks present when the review was closed and the final assessment made?

A. He was not. He was not a member.

Cross-examination by Mr. ANGELL:

Q. When you signed your roll before the review do you recall at what figure the Pere Marquette was placed?

A. I don't. I would have to refresh my memory by looking up the figures.

Q. Do you recall at what figure the Michigan Central was placed at that time?

A. Well 46 or 47 millions.

Q. About 46 or 47 millions?

A. Yes sir.

Q. You at first thought that it ought to be valued at 51 or 52 millions?

A. Yes sir.

Q. When you signed that preliminary or uncorrected roll was it still your own individual judgment that the assessment should be higher than 47 million?

A. If it had been left to myself, I believe I would have placed it at a higher figure than that; Mr. Freeman's argument won me over from my former one, I struck out finally and thought I would never go below 48 after we had talked and up to the last night, but Mr. Freeman was very insistent and very earnest about the reduction on the Michigan Central and having full confidence in Mr. Freeman and in his integrity and judgment and intelligence, as I said before I didn't know but what he knew more about the properties than I did.

Q. Finally the figure was after review reduced even lower, wasn't it?

A. Yes sir.

Q. It was something like forty-five millions?

A. I think it was, yes sir.

Q. Now did that final figure represent your own individual judgment after reconsideration?

A. I can only answer that question, that if it had been left to myself it would not have been fixed at that figure.

Q. The Pere Marquette which you thought should have been fixed at 36 was finally fixed considerably below 30 wasn't it?

A. Well I think it was somewhere about 26 or 27 or 28, somewhere along there, I don't really remember now.

Q. It was below 30, wasn't it?

A. Yes sir.

Q. Many millions of dollars below your own individual judgment?

A. Below my own original figures, yes sir.

Q. Now, had the matter been left to your own unbiased best judgment at the last would you have placed it as low as it was placed?

A. My own individual judgment?

Q. Yes sir.

657 A. No sir.

Q. Then the final result, at least as to the Michigan Cen-

tral and Pere Marquette did not represent the result of your individual consideration?

A. It did not.

Q. What was the fact as to other roads than those two, were the final figures those which your own individual judgment would have fixed in every instance?

A. I would not care to state positively at this time as to just where my own figures were upon all the other roads, there were a great many of them; some I undoubtedly had higher than others and some I probably had a little lower than some of the others did.

Q. Then your own best recollection at this time would be that there were several other instances on the finally completed roll where your judgment, your individual judgment did not concur with the conclusions adopted by the board.

A. That is right, sir.

Q. Do you recall this affidavit, Exhibit E attached to the bill or return made by your board to the mandamus proceedings in the supreme court, do you not?

A. Yes sir.

Q. You recall the paper to which I refer?

A. Yes sir. Do you mean the paper we all signed?

Q. That you all signed in the supreme court as a return.

A. Against the Detroit board of education.

Q. It is known as Exhibit E and has been offered in evidence and I desire to ask if you recall signing and swearing to that document.

658 A. I did sign and swear to it, yes sir.

Q. You read it over first?

A. I had it read over.

Q. And the statements contained in it received your approval?

A. Yes sir.

Q. Or I take it you would not have sworn to it?

A. Yes sir.

Q. Why do you say, as you did a few moments since, that the matter of credits was not reflected anywhere in your assessment?

A. Because of the talk that we had with reference to that item.

Q. Do you know what was in your own mind about it?

A. Yes sir.

Q. And you recall what others said?

A. What others said, yes sir.

Q. And that is the whole basis for your remark?

A. Yes sir.

Q. What weight if any other members might have given to that matter in their own minds that they didn't speak about you don't know?

A. I could only know what they may have thought of by the language used in the talk.

Q. At the time the roll that is in litigation was finally approved and became perfect, January 15th under the old law, at that time

how many tax commissioners or assessors were in office and acting?

A. Four.

Q. There was yourself and Mr. McLaughlin?

A. Yes sir, and Mr. Freeman and Mr. Sayre.

Q. On or about the 14th of January, 1903 you four gentlemen did join in signing the statutory certificate or warrant to the corrected and finally approved roll, did you not?

A. Yes sir.

Q. And it was duly delivered by you as a basis of collection to the auditor general?

A. Yes sir.

Redirect examination by Mr. BLAIR:

Q. Do you recollect what figure Mr. Freeman put upon the Michigan Central?

Mr. ANGELL: I object to it the same as before, that it is irrelevant and incompetent.

A. Forty-six.

Q. Finally?

A. Finally.

Q. Was that his first figure?

Mr. ANGELL: The same objection.

A. No.

Q. What was his first figure?

Mr. ANGELL: The same objection.

A. Forty-eight or forty-nine, I think.

Q. Do you remember what the figure was on the Pere Marquette?

A. His?

Q. No, Mr. Sayre's figure on the Pere Marquette.

Mr. ANGELL: The same objection.

A. Twenty-two I think.

Q. And was that where the figures stood at the time this remark was made by Mr. Sayre that he would not vote in the minority at the time?

A. At twenty-two?

Q. Yes, sir.

A. No sir.

Q. Is that where his figures stood?

A. That is where he argued all the time, yes sir.

Q. I asked you with reference to Mr. Freeman's first figure. Has it come to your recollection since that question was asked you as to what it was?

A. Yes sir. I find now that the figure that I said, 46, was not the figure that Mr. Freeman insisted upon because of something in connection with the arguments there that Mr. McLaughlin just called my attention to.

Q. State what it was.

A. It was 42.

Q. What was the argument that recalls it?

Mr. ANGELL: The same objection.

A. Mr. Freeman was insistent that 42 was what the Michigan Central should be assessed at and I said "Mr. Freeman, what in your opinion should the Michigan Central go in at?" He said "Forty-two millions dollars," I said to Mr. Freeman "I would like to meet your views but I said "I cannot possibly consent to that value, I would stay here until hell is frozen over before I would agree to that figure." It is because I am not in the habit of using that language that I didn't remember that.

661 JAMES WALKER, re-called as a witness on behalf of the defendant.

Direct examination by Mr. WYKES:

Q. Have you had any occasion to familiarize yourself with the Street and Interurban Railway business, the manner of acquiring the franchise and the methods of doing business?

A. Yes sir.

Q. What has your experience in that regard been?

A. At the close of the Michigan Railroad appraisal in 1901, that is about the first of June as I remember it, the State Tax Commission desired me to make an investigation of the Street Railway properties, all of them in the State of Michigan, for the purpose of a complete valuation, so that they might review the assessments to see whether they conformed to the law.

In that capacity they appointed me as a consulting engineer to go out and look over these properties and gain that required information.

The work actively began about the first of September in 1901, and extended until sometime about the middle of March 1902; during that time I walked over nearly all the mileage of the street railways of Michigan; such small portion of the mileage as I did not personally walk over myself, was examined by Mr. F. W. Thompson, who assisted me, and Mr. Thompson was ex-superintendent of the Muskegon Traction & Lighting Company.

The first portion of the work consisted of a search of the records of the secretary of state, for the purpose of understanding the exact relationship of the different companies to each other, and involved

662 a search back through the records to discover if possible how many companies were actually doing business within the State. There were some 350 or 360 corporate titles upon the

books of the secretary of state and their reports were in such shape that they themselves did not know just what the companies were doing, and what companies were alive, and what companies were dead. So we had first to take a complete list and then starting with that to go out and examine each property by itself and find out definitely from the officers as to what the relationships of the companies were.

The usual process of examining the property was to make an inspection on foot, first of the trackage of the company, as to its nature and extent and its condition.

I walked the track, with a stenographer, and took down a literal description of everything as I saw it, giving my own judgment as to its condition &c. and got a complete descriptive record of the property as it stood.

The next process would be to examine the power houses and machinery and car tools of the company, also to inspect the rolling stock of the company, and to observe its nature and to know just the character of each of the cars in possession of the company, and then I think I can make the statement, that I have seen or did see during that time, every car that was in use on the property of all companies organized under the street railway law of the State of Michigan.

Having made this full and complete description of the physical property of the company, the next step was to obtain a complete record of the franchises and rights under which the companies did business, and to inquire especially into the conditions under
663 which they did business, as to their rights in the streets, rates of fare or privileges of any kind, if they existed, and as to the duration of those rights.

After that the work consisted of an inquiry into the financial operations of the property, the examination of their books, and the questioning of the officers with regard to information concerning the operation. This information was further supplemented by published records such as the book used by Keane, Van Courtland & Company, of New York city, known among street railway men as the red book, that gives a short financial history each year of all the street railway companies doing business in the United States.

That in brief was the method of gathering information by personal inspection and examination of the property; after which the notes were all carefully type-written, and the computation as to the value of the physical property, and finally the market value of the entire property, which I gave as my opinion to the board.

Q. Did you also investigate the method of acquiring rights and franchises and the source of the rights and franchises and the municipalities by which conferred?

A. Yes sir, that came as a part of the final work.

The rights to do business within the confines of the municipalities of any assessment district in the State of Michigan, that were found to have been granted by that municipality or assessment district.

Q. Can you tell us what was the extent of the Interurban Street railway business in 1902, in the spring of 1902, in the State of Michigan?

A. The spring of 1902 saw the most advanced stage of
664 what was then interurban business in Michigan, that is, up to date. There had been previous to that time comparatively little suburban mileage.

I do not remember the amount of interurban mileage that was completed in the fall of 1901, that first went into operation in 1902, but I recall the names of some properties and their mileage.

Q. Can you give us the names of of the different companies which were doing business and the date of their organization?

A. I don't think I can give you the dates of their organization, I haven't a record of it.

Q. Just the year of their organization then?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. I haven't that information with me; I can give it to you though.

Q. I understand that the business of interurban street railways in 1902 was practically new in the State of Michigan?

Mr. BUTTERFIELD: That is objected to as leading and incompetent.

A. As I have already stated, yes sir.

Q. Now, how about the freight business at that time, was it extensive or was it limited?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. For answer to that question, I would say that I have here a description of some of of the equipment, or rather all the equipment used by some of the street railways of Michigan, and that description will serve to show the very small proportion of cars
665 devoted to any kind of packing business in Michigan at that time.

Q. Give that so far as it relates to freight and package business?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. The Adrain Street Railway Company possessed of five cars, none of them adapted for the carriage of freight of any kind.

The Bay City Consolidated Street Railway Company, possessed 38 cars, two of which were used for construction; none of which were used for freight.

Q. Do I understand that both of these were urban railway companies?

A. No sir.

Q. Were those interurban companies?

A. Only to a certain extent; the Adrain is wholly within the municipality; the Bay City Consolidated Street Railway Company, in

the case of that company I may say it had a trackage agreement with the interurban branch of the Saginaw Valley Traction Company, which did have an interurban line between the cities of Saginaw and Bay City.

Q. The one which you have mentioned was confined to the city?

A. Yes sir, it had two lines to summer resorts.

The Detroit, Plymouth & Northville railway, which is a small line about 17 miles long, wholly in the country, between country towns, had but seven cars, none of which were devoted to the carriage of package freight.

The Detroit & Pontiac railroad, an interurban division of the Detroit, United railway, had one express car No. B. out of a total of about 16 cars.

666 As I remember it for the entire State there were about 1750 cars all told in the street railway service of Michigan up to the close of 1901. Of that number, fifteen, or approximately 15, were devoted to the combination business; they were combination closed and open cars. 24 combination closed cars and 33 express and baggage, that is wholly used for express and baggage, that is out of a total of 1750 cars; a little over four per cent. of all the cars in the State were devoted in any way to the carriage of express, mail, and baggage.

Q. Does the freight business, the business in the nature of a freight business conducted by the Interurban railway, differ in any particulars from that conducted by steam railways, and if so in what particulars?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. It does, yes sir. The regulations that I discovered as to the operations of the cars were such as to preclude the character of a business in the case of the street railway being the same as a freight carrier.

Q. You speak of contract and franchise regulations?

A. Yes sir, I am speaking of actual contract relations imposed by the district through which these companies did business.

Mr. BUTTERFIELD: That is objected to as incompetent.

Q. What are the differences if any in the nature of the business as to whether one is carried in car load lots and the other is merely a package freight?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. Practically no freight was carried in Michigan, during the time when I inspected these properties, in car load lots, by interurban carriers.

667 It was not bulk freight. The freight was required to be carried, if at all, usually during certain hours of the night. If allowed to be carried or permitted to be carried at any time during the day, it was usually at stated times, perhaps one car in the

morning, and one car in the afternoon, not to exceed two cars per day.

It can not be said that rough commodities like live stock or coal in car load lots, was permitted in any way to be transported over the lines, that is, I am speaking in general, as to the general character of the business. The outside of the cars was required in many instances to be neat in appearance.

Q. Was there any difference in the make up of the trains on the two different roads or systems?

A. I cannot say that I ever saw a freight train on an interurban road. I saw one car at a time, which was devoted to carrying baggage freight.

Q. Is it the practice to carry simply one car on the interurban roads?

A. Yes sir, it was at that time.

Q. What can you say as to the distance or length of haul?

A. The business of the interurban street railway so far as the length of haul is concerned, differed radically from that of the roads organized under the general railroad law, in that year, in that the business was purely local and confined wholly to the line of the interurban road as against the fact of car interchange on the steam carriers.

Q. Does that difference still exist?

Mr. BUTTERFIELD: That is objected to as incompetent.

668 A. I am unable to state at the present time.

Q. What can you say as to whether the interurban railroad in 1902 had traffic arrangements with the steam railroad, and there was an interchange of cars between the systems?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. Speaking in general I found no such relation to exist.

Q. Do you know of any instances where the railroad companies refused to make traffic arrangements?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. I do not remember the specific instance, but I remember that that did occur, a refusal on the part of the steam carrier to accept freight in car load lots by a road organized under the street railway law.

Q. Do you know whether it is possible for one steam railroad to enforce a traffic arrangement with another steam railroad?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. I understand that to be the law in the State of Michigan.

Q. Do you know whether that condition exists as between a steam and an interurban or electric railroad?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. I know it did not exist in that time.

Q. Now, as to the acquiring of franchises by the interurban railroad, let me ask you how these franchises were acquired, whether from the State or from some municipality, or what is the practice?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. The practice was to acquire it from the municipality or township in which the street railway company desired to locate its property.

Q. Did you- examination indicate whether the contract or franchise contained a stipulation in regard to rates?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. Yes sir, I can go further and say, that I don't think any franchise of any corporation of importance within my observation that did not contain a stipulation as to rates.

Q. Now, is there any difference in the amount of the rate charged by the interurban road and the amount charged by the steam road?

A. There is, yes sir. Measured on a mileage basis, the rate of fare is lower considerably on the interurban line than it is on the steam car.

Q. Is that uniformly so?

A. It is uniformly so. The rates on the principal interurban divisions of the Detroit United railway, outside of the city of Detroit, run from one to one and a half cents per mile.

Q. Do you know whether the interurban rate exceeds one and a half cents a mile in any instance?

A. I don't know of any instance where it did, no sir.

Q. What is the usual and ordinary rate for steam railroads?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. The average rate of steam carriers per mile, during the calendar year 1901, exceeded two cents per mile, that is, the average for all railroads in the State.

Q. Is there any difference in the location of the interurban railway from the steam railway, as to whether one is in the street and the other is not?

670 A. The first interurban roads that were built in the State, the Rapid Railway system, and the Detroit, Ypsilanti and Ann Arbor railroad, were built in the street; the latter practice has been to acquire their own right of way.

Q. And what is the case when they approach and enter a city?

A. They are almost uniformly in the streets.

Q. Is there any difference between the two systems, the interurban and the steam railways, in the frequency with which stops are made to pick up passengers or freight?

A. In general, yes sir.

Q. What is the difference?

A. Well, as a comparison with through freight business on a steam

road, there is no through freight business on the interurban line as compared with the carriage of long heavily loaded trains of freight for long distances on the steam carrier.

Q. Speaking of both passengers and freight, what is the difference?

A. The main difference is constituted in the frequency of stops.

Q. On which line?

A. On the interurban or street railway lines.

Q. Is it the practice to stop wherever they can pick up passengers?

A. Not wholly so, no; in general, yes sir.

Q. At every crossing?

A. Yes sir.

Q. Do you know whether it is the practice of the interurban railway when using a street, to pay damages as an additional burden to the traffic of the street?

671 Mr. BUTTERFIELD: That is objected to as incompetent.

A. I never heard of such a case in my experience.

Q. Is there any difference as to the duration of the two corporations?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. The life of a street railway corporation is 30 years, that of a steam carrier perpetual.

Q. Have you made any investigation to determine whether it is the practice of steam railroads to organize for a perpetual existence when the statute permits?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. Yes sir.

Q. And is it the practice to organize for a perpetual existence?

A. Yes sir, and in answering yes, I mean a term of 999 years.

Q. Now, as to interstate business, is there any difference between the interstate business conducted by an interurban railway and by a steam railway, in the volume?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. There were but three companies organized under the street railway law, in the year 1900 that did any interstate business, one was the Twin City General Electric Company, between the cities of Ironwood, Michigan, and Hurley, Wisconsin. That company's line was in the street and carried no freight, doing a small passenger business.

Q. How long was it?

A. That whole line was not over five or six miles long.
672 The other case was the case of the Menominee City Electric Light & Power Company, doing business between the cities of Menominee, Michigan, and Marinette, Wisconsin.

The total length of that company's line as I remember it was

about 8 or 9 miles. Their line was wholly in the street crossing a river between the two towns, on a public bridge. It did no freight business of any description.

The third and last case was the case of the Toledo, Adrain and Jackson Street Railway Company, which in the State of Michigan, is located wholly within Lenawee county, and its line runs from the city of Adrain through the villages of Blissfield, Palmyria, Riga, to a point at the State line near the town of Sulphano, Ohio; there as the line crosses into Ohio the road is known as the Toledo & Western Railway Company, and is organized under the general railway law of the State of Ohio.

Q. Do you know whether it is organized under a Michigan statute also?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. It was organized under the train railway act of the State of Michigan.

Q. Do you know whether it is the practice of the steam and inter-urban roads to interchange passengers by selling through tickets for each other?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. It was not at that time.

Q. Was it in 1902?

A. It did not come to my knowledge that such was the case.

Q. What was the practice with steam roads as between each other?

673 Mr. BUTTERFIELD: The same objection.

A. They did interchange to my personal knowledge.

Hearing here adjourned until morning.

674 Proceedings of March 26th, 1904.

"Q. Taking into consideration all of the elements of difference between the business of a street and a steam railroad company which you have referred to, are you prepared to say whether the two classes of companies are engaged in a similar or in a different kind of business?

Mr. BUTTERFIELD: That is objected to as incompetent.

A. I am prepared to say; yes, sir.

Q. What is your judgment about that?

Mr. BUTTERFIELD: The same objection.

A. That they are engaged in a different kind of business.

Q. Have you been engaged in a few years past in a way which would qualify you for valuing railroad properties?

A. I have.

Q. State what your experience has been?

A. Since the 24th of October in the year 1900, up to the present time, I have been engaged in no other occupation than that of valuing corporate property in the State of Michigan, chiefly railroad property, both street railways and roads organized under the general railroad law.

Q. Has your work been in the nature of an advisory capacity to the State board of assessors?

Mr. BUTTERFIELD: That is objected to as leading and incompetent.

Q. (Continuing:) And to the tax commission?

A. I have occupied and do occupy the position of consulting engineer to the board of State tax commissioners, and the State board of assessors of Michigan.

Q. State in detail what your duties in that position have been; what you have done in the way of investigating and reporting on the railway properties of Michigan, and their condition and their value?

675 A. In my examination in the early part of January, I think I detailed my connection with the Michigan railroad appraisal, as conducted in this State, from the latter part of 1900 and during the early part of 1901, and during yesterday's examination I detailed the work done after the spring of 1901 to the middle of the month of March in 1902; after that date and prior to the second Monday of April and the third Monday of May, speaking in general terms, it became my duty under orders from the State tax commission, to address certain boards of supervisors in this State, with regard to the valuation of street railway property located within the various assessing districts over which they had control. The two days, the second Monday of April and the third Monday of May, was given because of the fact that personal property may be not checked upon the rolls by the local assessors, speaking in general terms, after the second Monday of April, nor real estate changed after the third Monday of May.

The tax commissioners and myself were engaged in that work, informing the boards of supervisors as to the valuations of street railway property up to that time, the third Monday of May, when they could last affect their own rolls with their own judgment, assisted by such information as we had been able to give them, and after the third Monday of May reports had been received from every assessing officer of the State as to what he had finally assessed the street railway property within his jurisdiction at, and a complete system of reviews was held by the board of State tax commissioners, with the design of placing these properties upon the rolls in case the local supervisors had not done it, at the figures that they believed to be the cash value of the property. This work continued until the second Monday of October, at which time the power of the State board of tax commissioners for the current year, to change valuations upon the local rolls ceased.

676 Q. Now, address yourself particularly to the connection which you had with the valuation of railway property, and that will be a sufficient answer?

A. From the second Monday of October 1902, on until the 15th day of December of the same year, the board of State tax commissioners undertook its duties as a State board of assessors *ex-officio*, under act 173, and I acted in the capacity of advisor to them in the matter of the first valuation of the railroad property under this law. The law provided that the reports which the railroads should make to the State board of assessors should have been completed by the 30th day of June of that year and forwarded to the office of the board at Lansing, but owing to some delay in getting out the blanks, the reports did not begin to come in until the latter part of July, but with such reports as had come in by the second Monday of October, the board started its work of valuing the railroad and other corporate property subject to assessment under this act.

For the purpose of making the information which these companies should give to the board as full and complete as possible, the blank itself was designed, after the first thirteen questions which the law had provided, and in accordance with the 14th question, which provided for such other information as the board might require, the blank was formulated substantially along the lines of the reports of railroads to the Interstate Commerce Commission; the law however required the companies to report as of the fiscal year ending on the second Monday of April, which in 1902 was the 13th day of that month. Some of the companies were unable to report as of that date, and reported, some of them, as of the 30th of April, some as of the 30th of June, and in one or two instances I think, though I cannot remember exactly, as of the first of April.

677 That was the starting point of the information which the State board of assessors was to make the first assessment of the railroad properties of Michigan, in conformity with the act 173 of the public acts of 1901.

In order to get such other information as seemed necessary, that would throw any light upon the question of the history of the properties and their operations in past years, reference was had also to the reports of the companies to the railroad commissioner of Michigan, the reports of the companies to the Interstate Commerce Commission at Washington, the reports of the railroad companies to other and adjoining States, the reports of the operations of the companies made by H. V. & H. W. Poor, of New York city, in what is known as Poor's Manual of Railroads, and any other general information which could be obtained, and it became my duty to study and abstract this information and present it to the board at their session in order that they might have the information laid before them in concrete shape.

The board also visited the city of Detroit and held a number of its sessions in that city, for the purpose of being in a position to call before them for preliminary hearing and information, certain of the

officials of some of the larger railroads, whose headquarters were there or who were located there, and at such preliminary hearings, the representatives of the Michigan Central, Pere Marquette, Grand Trunk, Lake Shore, Ann Arbor & Northwestern railroads, were present.

Q. You were also present?

A. I was present at every session of the State board of assessors held for the purpose of valuing the railroad properties, except the final two sessions, to which I was not admitted.

The duties which I performed were not confined wholly to the giving or interpreting information, but also for advising the board in an expert capacity, as to the value of the properties themselves
678 under consideration, and such opinions I gave.

Q. Can you detail the nature of the examination you made before giving those opinions?

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant.

A. It consisted of an examination of all the records which I have mentioned, together with the records and results of the Michigan railroad appraisal, covering the work of Professor Cooley and Professor Adams, and such work as had been done by ex-tax commissioner, Robert Oakman, with regard to the earning power of railroad properties, or I should say with regard to the valuation of railroad property, by means of their earning power, and the work projected by ex-tax commissioner, Milo D. Campbell, with regard to the value of property by means of stock and bonds.

After the study of that information, and through and as a result of the knowledge I had gained by my own experience, I rendered my opinion.

Q. Let me ask you if you have since that time made a careful and detailed valuation of the properties of the Pere Marquette and Michigan Central, for the purpose of giving testimony in this case?

A. Yes, sir.

Q. How did the figures which you have reached in the valuation which you have made here, compare with the recommendations which you made to the State board of assessors?

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant.

A. They are the same. I have no reason on further study of the information which has been at my command, to change my idea of the value of these properties, and my idea is the same now as it was when I gave my opinion to the board.

679 Q. What was the plan of valuation followed by the State board of assessors, and how was the plan devised?

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant.

A. Do you mean for finding the final valuation?

(Last question read.)

A. As I have already stated I laid this information before the board in their sessions.

Q. Whether they followed the Grosscup plan, or stock and bond plan, or the inventory plan, or a combination plan of all three, or what they had in their mind, or is that shown by the report they made themselves?

A. I think that is shown by a report that they made themselves, but they did so consider all plans so-called.

Q. That is in substance the same plan that you have followed, is it?

Mr. BUTTERFIELD: That is objected to as incompetent, irrelevant and leading.

Q. A combination of all the different methods which have been mentioned, the inventory plan, the stock and bond plan, and the earning power &c.?

A. Yes, sir.

Q. State the plan of valuation which you have followed and the conclusions which you have reached?

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant.

A. The general plan of a valuation of a railroad property as I conceive it, is based upon the same practical kind of a consideration of all features or elements surrounding the property, that anyone would have to have if they were going to investigate that property to determine the value for ordinary purposes of sale.

680 In such an investigation it would be necessary to examine the property from its physical standpoint or to have such knowledge that you could be reasonably well satisfied as to its physical condition, to know the amount of its stock and bonds, and current liability, whether the latter item was small or large and of what it consisted, whether it was likely to be funded or reduced by the ordinary operation of the road; to know whether the interest and dividends had been paid upon the securities; to examine the income account of the road and its operating account, over a series of years; to know whether at the particular time of your investigation the operation was the result of an extraordinary condition of the times or not; to examine the operating expenses with reference to the matter of inclusion of permanent improvements; to know in short whether permanent improvements were being made on the property; that is, extraordinary repairs and renewals; to see, if such permanent improvements had been made, to what account they had been carried, which in a measure would indicate the relative prosperity of the road with other roads; to note the cost of construction and present physical value of the physical properties; to know the traffic condi-

tions under which the road operates and has operated in the past; its geographical relation to other properties, and finally from the result of all investigations with regard to the nature of the property, to arrive at an amount which would be the selling price of that property—the usual selling price at the time and place under consideration.

That is a long answer, but I think I can shorten it by explaining that I mean that in order to value a railroad property, you must consider every feature that surrounds it before you could definitely arrive at the value of the property.

In regard to the different plans that have been evolved, I would say that through any one of them, if given proper consideration, you might arrive at the cash value of the property.

I have preferred, since it has been my fortune to observe and to have to study all these plans, to a certain extent, to look them all over and apply them all in different ways, in order to reach my opinion.

Q. And you did as I understand investigate all these elements and conditions which affected values before reaching your final conclusions?

A. Yes, sir.

Hearing here adjourned until morning.

682 CHARLES B. MERSEREAU, being called as a witness on behalf of the complainant and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth, testified as follows:

Direct examination by Mr. BUTTERFIELD:

Q. What is your age?

A. 38.

Q. Where do you reside?

A. Manistique, Michigan.

Q. What is your business?

A. Cashier of the Manistique bank.

Q. Do you hold any official position with any lumber company?

A. Yes sir.

Q. What is the name of that company and your position?

A. Secretary of the Thompson Lumber Company, Limited.

Q. What is the business of the Thompson Lumber Company, Limited?

A. Why, the only business that we have been engaged in since I have been connected with it was running a railroad.

Q. How long have you been connected with it?

A. Since the forepart of November.

Q. Last?

A. Yes sir.

Q. When was the company organized?

A. Just about that time, I think it was about the 5th of November that we bought it and we incorporated it right away.

Q. It is a limited partnership is it?

A. Yes sir.

Q. Where does this railroad run or perhaps I should say extend?

A. It extends from south Manistique to Thompson and then from Thompson up north I guess it is about 25 miles; I think there is about 28 miles of track.

Q. Is that the railroad that was formerly owned and operated by the F. and F. Lumber Company?

A. Yes sir.

Q. How did your company acquire that road?

A. Purchased it.

Q. Does your company in operating that railroad carry passengers and freight for hire for other people?

A. Yes sir.

Mr. KNAPPEN: We object to it as not material and secondly as not proper rebuttal testimony.

Cross-examination by Mr. KNAPPEN:

Q. The F. and F. railroad is the Fuller & Friant road.

A. They are incorporated as the F. and F. Lumber Company, Limited, that was the full title, I suppose it was made up of Mr. Fuller and Mr. Friant, they were both interested in it.

Q. That road had been operated up to the time of this purchase in connection with the Fuller and Friant Lumber Company, had it not?

A. Yes sir.

Q. And the Fuller & Friant Lumber Company was engaged in the general lumber business?

A. Yes sir.

Q. Do you know when this road was built?

A. I know it has been built a good many years, it was built before they bought it, before they bought the property, the Delta Lumber Company I think built it.

Q. So long as the Fuller & Friant Company was operating they were using this railroad in connection with their business?

684 A. Yes sir, they used it in connection with their business.

Q. You spoke of the ownership of this road being now in the Thompson Lumber Company, Limited. Is there also a Thompson Lumber Company?

A. Well I don't know, not that I know of, there is not there. The Thompson Lumber Company Limited is our company, there may be some other company somewhere else.

Q. Have you with you the articles of association of the Thompson Lumber Company Limited?

A. No sir.

Q. Have you seen the articles?

A. Yes sir.

Q. I suppose they are on record in the State offices?

A. Yes sir.

Q. That company is organized, is it not, for the purpose of doing a general lumber business, manufacturing lumber?

A. I think that is one of the things stated in the articles of incorporation.

Q. Does the Thompson Lumber Company Limited succeed any other corporation or association or partnership?

A. Well succeed, of course it bought this outfit of the F. & F. Lumber Company, and they succeed them as a new company of new people formed.

Q. Who are the people interested in the Thompson Lumber Company?

A. Fred Cooper, George Cole, Fred Miller, William Bonaface, T. McNamara and myself.

Q. Are any of these people engaged in the lumber business either individually or as members of corporations or associations?

A. Yes sir, I am engaged in the lumber business myself but not at that point.

Q. Of what company or association are you a member?

685

A. It was not a company, it was individually, and Mr. McNamara and Mr. Cooper are interested in the lumber business some.

Q. As individuals or partners?

A. They have a lumber business they are conducting as partners, Mr. Miller and Mr. McNamara are.

Q. Are they interested in a corporation or association?

A. No sir.

Q. The other gentlemen you mentioned, are they interested in lumbering operations.

A. The Bonaface Brothers are lumbermen yes sir.

Q. In that firm name?

A. Yes sir, it is a co-partnership of two brothers.

Q. Who is the first one you name?

A. George Cole.

Q. Is he interested in it?

A. No sir, he is not engaged in any lumbering.

Q. Is he a member of any lumbering corporation?

A. No sir.

Q. You say this company was formed last November?

A. Yes sir.

Q. As a partnership association limited?

A. Yes sir. At that time there were only three of us that incorporated, since that we have sold some of the stock.

Q. The business of that road is principally carrying forest products?

A. Yes sir.

Q. Largely I suppose in connection with the mills in which the various members of the association whom you have named are interested?

A. No, not at all, that is I say "not at all." I don't know but what Mr. Miller might be freighting and running supplies over the road. We carry principally for the Chicago Lumber Company now, another corporation entirely.

686 Q. But it is principally forest products you say?

A. Yes sir.

Q. You haven't built any new road?

A. Well we have to build more or less right along to get into the product.

Q. Spurs you mean?

A. Yes sir.

Q. You have not built any extensions of road?

A. No sir, not any great distance.

Q. I suppose the passenger business is very limited?

A. It is not very heavy.

Q. It has always been practically what would be called a lumbering railroad so far as the nature of its business is concerned?

A. Yes sir, I suppose that is what they will call it, a lumbering road—a logging road.

Redirect examination by Mr. BUTTERFIELD:

Q. Your company bought from the F. & F. Company not only the road but its equipment, I understand.

A. Yes sir.

Q. And it is that equipment that you are now operating with?

A. Yes sir.

Q. Where do the passengers ride that are carried on your road?

A. In the caboose generally.

Q. Was that caboose bought from the F. & F. Company?

A. We bought it from them.

687 Q. They had one?

A. Yes sir.

Recross-examination by Mr. KNAPPEN:

Q. You say the passengers generally ride in the caboose. When they do not ride in the caboose where do they ride, in the freight cars or on the engine?

A. There is occasionally a train that don't have any caboose and they ride where they get a chance.

Q. In other words, you do not carry any regular passenger cars?

A. No sir.

Q. I suppose your cars generally are flat cars or gondola cars?

A. Logging cars and some box cars.

Redirect examination by Mr. BUTTERFIELD :

- Q. How are the passenger fares collected ?
A. By the conductor.
Q. What is the conductor provided with to evidence the payment of a fare ?
A. They have a system of cash slips that they tear off that shows the amount paid.
Q. What is called a duplicate ?
A. I don't remember which system it is but I know it shows the amount, and there are different systems.
Q. But something which is given to the passenger and something which is turned into the office ?
A. Yes sir.
Q. State whether or not a collection is made from all passengers that ride so far as you know.
688 A. Why yes sir, that is the instruction and the intention, except a few that have passes.

Recross-examination by Mr. KNAPPEN :

- Q. When did you adopt that system of collecting fares ?
A. Well I don't know I am sure. I think it was in vogue before we purchased.
Q. Do you know that of your own knowledge ?
A. No sir, I don't know whether it was or not.
Q. Do your trains run on fixed accurate schedule ?
A. Well they run as near as they can, they are not always very regular.
Q. Do you have a schedule of arrival at and departure from stations at fixed times ?
A. We haven't any printed schedule that I know of.
Q. You don't hold out any printed schedule to the public ?
A. No sir, I don't think so.
Q. So far as you know do you have any fixed schedule time for arriving and departing from the various stations on the road ?
A. We intend to have, yes sir certain times.
Q. Well, do you have a fixed schedule of times ?
A. Well so far we have been bothered a good deal in getting it down to fixed times.
Q. In other words, you haven't got there yet ?
A. We haven't been regular.
Q. Have you reached that point where you have really made out a fixed schedule ?
A. Well I could not say as to that. I know they try to
689 run on schedule time, but it has been hard work so far ; we run over another road a part of the way from South Manistique in and they delay us a good deal, we have had hard work to get it down.

Q. Q. Do you know of the existence of any fixed schedule of time of arrival at and departure from the various points on your road?

A. I know they have a time they are supposed to arrive and depart, they have a schedule they are supposed to run on, but it has been so far——

Q. (Interrupting). How many trains a day each way do you make throughout the year?

A. Well we expect to run two trains through from clear up in the woods clear to Manistique, and we run some other trains from up in the woods to Thompson that run irregularly.

Q. Do you do that the year round?

A. We took hold of it in November; we didn't run the year round this winter.

Q. How much of the time did you succeed in running this winter?

A. Well I could not say exactly. We had a break down and then we got into trouble with the other road, we had a contract and they tried to raise the rates and we closed down but we probably would have had to close down anyway a part of the time on account of the severe winter?

Q. So you have not run very regular this winter?

A. No sir.

Q. Do you suppose you have run on an average one half the days that have elapsed since last November?

A. No sir, we closed down, it must have been for two months entirely that we didn't pretend to run.

Q. Aside from the two months you didn't run every day?

A. Well there were days that we didn't run?

690 Q. What proportion of the days did you run apart from those two months that you say you shut down altogether?

A. Well I couldn't say just what proportion.

Q. Can you give us a fairly accurate estimate?

A. Before we closed down on account of the trouble with the railroad, we had three locomotives and our principal one broke a tire and we had to send to Pittsburg to get one and that laid us up I think for something like three weeks. While we did some other work hauling products to Thompson we didn't run the logging trains through to Manistique, as we call it.

Q. Then could you answer with a fair degree of accuracy what proportion of the time apart from the two months you shut down entirely, you ran trains?

A. Well do you mean deducting the three weeks that we had the accident and were not pretending to run?

Q. I am willing to deduct that too and take *thereat* of the time.

A. Well outside of that we missed very few trains; some days we made one trip instead of making two.

Q. When did you resume running the trains?

A. The regular running of those logging trains they expected to resume a long ago last Monday, whether they did or not, I could not say.

Q. Then so far as your personal knowledge goes they have been shut down since when?

A. Well I think it was about the middle of—that is I am speaking of these trains that run through *the* Manistique—the latter part of December.

691 Redirect examination by Mr. BUTTERFIELD:

Q. Up to the time you had the accident which you have spoken of the trains did run I understand you with reasonable regularity?

A. Yes sir.

Q. During this time that the road was as you call it shut down what portion of it was in operation?

A. Well, during the time of the accident it was in operation from Thompson up north to the lumber camps.

Q. How far is that?

A. Well it is something over 20 miles.

Q. The portion that you refer to when you say it was shut down was between Thompson and Manistique?

A. Yes sir, those trains didn't run when we were broke down.

Q. The intention of the company is I take it to resume the operations and run with regularity.

Mr. KNAPPEN: That is objected to as immaterial and incompetent.

Q. How far is it from Thompson to Manistique?

A. About 7 miles.

(Hearing here adjourned until 2 o'clock.)

692 JOHN J. HUBBELL, sworn as a witness for defendant, testified:

I reside in Manistee, Mich. Am 59 years old. My business is surveying and civil engineering. I began that business in 1869 and have been at it continuously since 1887. Before that time, I had had experience in both land, topographical and railroad surveys, and in private practice. In 1887, I was appointed chief engineer of the Manistee, & North-Eastern Railroad Company, which position I still hold. I was connected with the Michigan railroad appraisal in 1900.

“Q. Do you know about the Crawford & Manistee River road?

A. I know something of it.

Q. Where is that situated?

A. That is situated about what we call jam-1 on the Manistee river. I furnished a map showing the location of it. I intended to with all the roads and I think I did of that.

Q. Do you know whether or not that road has been recently incorporated?

A. It was incorporated at that time. I found in the office the reports that they had been making to the railroad commissioner and

I judged from that that it was incorporated. Of course, I didn't call to see their articles of incorporation, I was so informed at the office and looked over their annual report that was made to the railroad commissioner.

Q. What kind of a road was that?

A. Well, it was a narrow gauge road; I guess you have got it here somewhere. You will find it in 8 O, volume 9, page 572.

Q. Do you know what the name of it was when you made the inspection?

A. It is the Crawford & Manistee river, that is the way I have it designated here.

Q. What kind of business did that road do?

693 A. A. Strictly logging, nothing else.

Q. Didn't it do any passenger or freight business?

A. I never heard of its doing any.

Q. Do you know a man named Wentz, up there.

A. William Wentz, yes, sir.

Q. And James Dempsey?

A. Yes, sir.

Q. Did they have anything to do with this road?

A. William Wentz and James Dempsey were the principal stockholders of the Manistee Lumber Company and the Manistee Lumber Company were supposed to be the owners of this road and it was in their office that I found the office data.

Q. How long is that road, do you remember?

A. 10 miles.

Q. Was that one of the roads that you put a value upon?

A. I don't think so. It doesn't seem to be in the list of those that I included.

694

Proceedings of January 14, 1904.

JOHN J. HUBBELL being recalled on behalf of the defendant testified as follows:

Direct examination by Mr. WYKES:

Q. You are acquainted with the Louis Sands logging road?

A. I am.

Q. Where is it located?

A. Well that is up on the Manistee river. I think the tracing shows in my report but in common language we call it up above jam-1.

Q. It begins at jam-1?

A. Very near there, where they dump their logs in the river and runs northerly up through the country, I have forgotten the names of the counties, something like 30 miles.

Q. Have you ever been over the land?

A. Not all of it. I never traversed the whole of it, I have been over a portion of it.

Q. How does it end at the northerly extremity?

A. It ends at some camp up in a swamp or something of that kind; the end varies, they pull it up and run it over into this bunch of timber and that bunch of timber.

Q. How much of the line is permanent, do you know?

A. Well I should say perhaps the lower twenty miles has not shifted for some years, that is my recollection.

Q. Do you know what the total mileage is?

A. Well I could tell. My recollection is it is about 30 miles.
695 Q. Are there any settlements on it whatever?

A. Well very little, it is pretty nearly cut stump land with very little settlement.

Q. Now as to the use to which it is put, can you describe that for us briefly.

A. So far as I know, exclusively logs. There are one or two cabooses or combination or box car or something of that kind for taking supplies up from the junction; it crosses the Kalkaska branch of the Pere Marquette and there is a junction there and they do a little freighting for their own camps, that is all that I understood at that junction; they ship their supplies from Manistee up on the Kalkaska branch to that junction and then they take them on up their own road to their camp for that purpose. I don't remember just the number of cars but it seems to me there are two, or something like that, of very cheap cars.

Q. That is the limit of their business, their own private hauling?

A. So far as I know, they do nothing for others.

Q. Is the road so located that they could do a general business for others, taking into consideration the surrounding territory.

A. For other people.

Q. Yes sir.

A. They might haul logs for other people.

Q. And do a general railroad business?

A. I don't think so. I don't think there is enough timber left there along the line to pay.

696 Q. Now as to their equipment, have they any passenger coaches?

A. No sir, not that I found out or discovered.

Q. What have they?

A. Well I prefer to refer to my report written fresh while I was on the ground to answer; whether it is a Russell or a Butterworth & Lowe it is a logging car with bunks.

Q. How many of those have they?

A. You will find it in my report.

Q. Do you know anything about the motive power?

A. Yes sir, I looked over the motive power; it is one of the roads I guess I was the only fellow that saw.

Q. Do you know without referring to your notes?

A. No sir; I wouldn't like to answer those questions from mem-

ory. My recollection is two, and it might be three locomotives that they had.

Q. It would not be more than three.

A. I don't think so. I think it was two.

Mr. WYKES: That is all.

Mr. BUTTERFIELD: We have no cross-examination.

697

DETROIT, MICHIGAN.

Proceedings of July 2, 1904.

Mr. KNAPPEN: I offer in evidence a certified copy under the seal of the secretary of state of Michigan, the articles of association of the Thompson Lumber Company, Limited.

Mr. BUTTERFIELD: That is objected to as irrelevant.

Mr. KNAPPEN: It reads as follows:

MICHIGAN, DEPARTMENT OF STATE, {
Lansing. }

I, Charles S. Pierce, deputy secretary of state of the State of Michigan, hereby certify that the attached sheets of paper contain a correct transcript of the articles of association of the Thompson Lumber Company, Limited, recorded in this office on the sixteenth day of November, 1903.

In witness whereof I have hereunto attached my signature and the great seal of the State, at Lansing, this thirty-first day of May, nineteen hundred four.

[SEAL.]

CHARLES S. PIERCE,
Deputy Secretary of State.

698 Articles of Association of the Thompson Lumber Company, Limited.

We, the undersigned, Fred Cooper, Charles B. Mersereau, and John H. Cole of Manistique, Michigan desiring to become associated under the provisions of chapter 160 of the Compiled Laws of the State of Michigan of the Year 1897 the same being act No. 191 of the Session of Laws of Michigan of the Year 1877, entitled "An act authorizing the formation of partnership associations in which the capital subscribed shall alone be responsible for the debts of the association except under certain circumstances," and acts amendatory thereto, do hereby make, execute and adopt the following articles of association, to-wit:

Article I.

The name of the persons hereby associating themselves together to form this association are as follows: Fred Cooper, Charles B. Mersereau and John H. Cole.

Article II.

The amount of capital of said association subscribed for by each is the sum of twenty thousand dollars (\$20,000).

Article III.

The total amount of capital of this association is the sum of sixty thousand dollars (\$60,000) and the same is to be paid as follows:

699 Thirty five thousand dollars (\$35,000) in cash, contributed equally by each partner, all of which is now paid and the balance twenty-five thousand dollars (25000) to be paid on or before one year from this date.

The capital stock subscribed shall be subject to the respective provisions of sec. 4 of said act as amended.

Article IV.

The character and nature of the business to be conducted by this association is the general lumbering, logging and mercantile business and the purchase and sale of real estate and forest products and the location of the same shall be at and in the vicinity of the township of Thompson, county of Schoolcraft and State of Michigan.

Article V.

The name of this association shall be "The Thompson Lumber Company, Limited."

Article VI.

The contemplated duration of this association shall be for the period of twenty years.

Article VII.

The names of the officers of this association selected in conformity with the provisions of said act are as follows: Managers—Fred Cooper, Charles B. Mersereau and John H. Cole, of whom Fred Cooper shall be chairman, C. B. Mersereau, the secretary and John H. Cole the treasurer.

Article VIII.

The capital stock of this association shall be divided into six hundred (600) shares of the par value of one hundred dollars (\$100) per share.

700 In witness whereof we, the parties hereby associating for the purpose of giving legal effect to these articles hereunto sign our names this tenth day of November A. D. 1903.

FRED COOPER.
CHAS. B. MERSEREAU.
JOHN H. COLE.

701 STATE OF MICHIGAN, }
Schoolcraft County, } ss :

On this tenth day of November A. D. 1903 before me a notary public in and for said county personally appeared Fred Cooper, Charles B. Morsereau and John H. Cole, to me known to be the persons named in and who executed the foregoing instrument and severally acknowledged that they executed the same freely and for the intents and purposes therein mentioned.

C. W. DUNTON,
Notary public.

My commission expires Dec. 9th, 1906. [SEAL.]

Recorded November 16, 1903.
B. & V.

702 Mr. KNAPPEN: In connection with the testimony of Prof. Cooley, as to his physical valuation, right-of-way maps filed in the office of the commissioner of railroads were referred to by him as data from which certain information was taken. Those have not been heretofore formally offered in evidence, and we would like to understand that those are in evidence for reference of either party, if desired.

Mr. BUTTERFIELD: Do you offer them now in evidence, is that the idea?

Mr. KNAPPEN: Why, yes, sir.

Mr. BUTTERFIELD: They are objected to on the ground that they are incompetent and irrelevant and not proper sur-rebuttal.

Mr. KNAPPEN: I suppose subject to that objection they are admitted.

Mr. BUTTERFIELD: I suppose subject to that objection they can go in.

Mr. KNAPPEN: As I understand it, there is no objection raised to our referring to the maps subject to the objection above noted, without having the maps to offer here and marked, that is correct, is it?

Mr. BUTTERFIELD: That is so.

Mr. KNAPPEN: I offer in evidence a certified copy authenticated by the seal of the register of deeds for Kent county Michigan of the articles of association of the F. & F. Lumber Company, Limited.

Mr. BUTTERFIELD: I object to it as irrelevant and incompetent, not proper sur-rebuttal.

703 (Paper referred to marked Exhibit 74, July 29, 1904, and reads as follows:)

Articles of Association of F. and F. Lumber Company, Limited.

Received for record, December 2nd A. D. 1898, at 10 o'clock a. m.

SCOTT GRISWOLD, Register.

The undersigned, desiring to form a partnership association limited, under the provisions of chapter 79 of Howell's Annotated Statutes, of the State of Michigan, and the amendments thereto, for the purpose of conducting a lawful business hereinafter described, and contributing capital thereto, which capital shall alone be liable for the debts of such association, do hereby enter into, sign and acknowledge this statement in writing, and do hereby agree as follows:

1. The names of the persons uniting in this agreement are T. Stewart White, of Grand Rapids, Michigan, who has subscribed to the capital of said association \$60,000.00; Thomas Friant of Grand Rapids, Michigan, who has subscribed to the capital stock of said association \$30,000.00. and Philo C. Fuller, of Grand Rapids, Michigan, who has subscribed to the capital of said association \$45,000.00.

2. The total amount of capital of said association is the sum of one hundred and thirty-five thousand dollars, which for convenience is divided into 1350 shares of one hundred dollars each, and \$25,000. of said stock is to be paid in cash to the treasurer of the association within fifteen days from the date of these articles, \$60,000. November 1, 1899, and \$50,000. November 1st 1900, in cash.

3. The character of the business to be conducted is the purchase and sale of timber, timber lands, logs and forest products and
705 the manufacture and sale of forest products; the operating of necessary camps, mills, railroads and stores for the proper conducting of a general lumber business and doing such other acts as shall be incident to the general business of the manufacture and sale of lumber, and such operations are to be carried on in the State of Michigan.

4. The principal office of said business is located and fixed and is to be maintained in the city of Grand Rapids, Kent county, Michigan.

5. The name of said association is to be and is F. & F. Lumber Company, Limited.

6. The duration of said association is fixed at the period of 20 years, commencing at the date of this agreement.

7. There shall be upon the execution of these articles, three managers of said association, and the names of the managers of said association selected in accordance with the provisions of said act, and who are to hold office until the first annual meeting of said com-

pany, are, T. Stewart White, Thomas Friant, and Philo C. Fuller, and it is further agreed that said board of managers may be increased to four at any time upon a vote of the board of managers herein provided for.

8. From among these managers, Thomas Friant, has been selected as chairman, T. Stewart White as secretary, and T. Stewart White as treasurer.

9. And we the persons above named do hereby enter into this agreement and do respectively subscribe for the amount of the capital of said company as above stated, and agree to pay the amount of our several subscriptions to the treasurer of said company in accordance with the provisions of the foregoing articles.

706 In testimony whereof, we sign this instrument at the city of Grand Rapids, Kent county, Michigan, this first day of November 1898.

T. STEWART WHITE.
THOMAS FRIANT.
PH. C. FULLER.

(U. S. rev. st'p 10 cents 11/1/98. Z. S.)

STATE OF MICHIGAN, }
County of Kent, } ss :

On this first day of November 1898, personally appeared before me, a notary public, in and for said county, the above named T. Stewart White, Thomas Friant, and Philo C. Fuller, all to me personally known to be the persons described in and who subscribed the foregoing articles and severally acknowledged the execution thereof as their free act and deed and for the purposes and intents therein specified.

[NOTARIAL SEAL.]

ZENA SLAYTON,
Notary Public, Kent County, Michigan.

STATE OF MICHIGAN, }
County of Kent, } ss :

Register's Office.

[SEAL.] I, Frank J. Cook, register of deeds of Kent county, Michigan, do hereby certify that the within and foregoing is a true copy of the original record of articles of association, recorded the 2nd day of December A. D. 1898, at 10 o'clock
707 a. m. in the register's office for the county of Kent, in Liber 11 of Miscellaneous Record, on pages 479 & 480, and that the same has been compared by me with the original record in my office, and is a correct transcript therefrom, and of the whole of such original.
Witness my hand, this 7th day of July A. D. 1904.

F. J. COOK,
Register of Deeds.

On the back is endorsed the following:

"Certified copy of articles of association of F. & F. Lumber Company, Limited."

708 GLENN L. WILLIAMS, being called as a witness on behalf of the defendant and being first duly sworn by the examiner to tell the truth, the whole truth and nothing but the truth, testified as follows:

Direct examination by Mr. WYKES:

Q. How old are you?

A. 26.

Q. Where do you reside?

A. Do you mean my legal residence?

Q. Yes sir.

A. Ionia.

Q. What is your present occupation?

A. Stenographer for the State tax commission and the State board of assessors.

Q. How long have you been thus employed?

A. About 2½ years.

Q. And in that position what is your work principally?

A. The principal part of the work is taking testimony at reviews held by the State tax commission and reviews on the railroad assessments held by the board of assessors.

Q. When did you begin taking the testimony of those reviews?

A. The latter part of July two years ago.

Q. That would be in July of what year?

A. Either the first of July or August the 1st.

Q. July 1901?

A. Yes sir.

Q. And that has continued through the last year?

A. During review periods, yes sir.

709 Q. How is the work of review conducted—usually by one member or by more than one member?

A. That is owing to circumstances; sometimes one and sometimes more, sometimes the whole board.

Q. Ordinarily where you appear is the whole board present?

A. No I hardly think that they have all been present, except the first year they were in the work that I did.

Q. Is it the purpose of the board to have a typewritten transcript of each meeting, each review?

A. No sir, not necessarily.

Q. With what commissioner have you been usually employed—whose reviews have you usually taken?

A. Well no one in particular, just whatever one happened.

Q. And you have taken reviews for all of them?

A. Yes, sir.

Q. Can you tell how many reviews you have reported approximately since your employment in this capacity?

A. No, I couldn't tell how many reviews.

Q. Were there a good many?

A. Several, yes sir.

Q. By that do you mean fifty?

A. Oh I should think there was fifty, possibly more, taking all kinds of reviews.

Q. Possibly a hundred?

A. I wouldn't want to say there was 100, there might be and there might not.

Q. Have you examined your notes taken on those reviews for the purpose of ascertaining the character of the questions asked and the character of the answers given; have you examined your notes recently?

A. Yes sir.

Q. Let me ask you if you examined with special reference to determining how many times at those reviews supervisors testified that they willfully and intentionally undervalued.

Mr. BUTTERFIELD: I object to it as incompetent and irrelevant.

Q. I am asking you if you examined for the purpose of ascertaining that fact?

A. Yes sir.

Q. With special reference to determining how many times?

A. I examined with the idea of finding out how many times the supervisors had said they assessed at less than cash value, I don't know that they necessarily said "willfully".

Q. How many times did you find it?

Mr. BUTTERFIELD: I object to that as immaterial, irrelevant and incompetent.

A. During what period?

Q. During the period previous to 1902.

Mr. BUTTERFIELD: The same objection.

A. Previous to the reviews?

Q. Previous to the assessment by the State board of assessors and the fixing of the average rate of 1902.

Mr. BUTTERFIELD: The same objection.

A. Well I have only found in two different places I think it is eight men—eight or ten, I couldn't tell exactly without looking at my notes.

Q. That is at only two different reviews?

A. Two different reviews, yes sir.

Q. Do you mean to say you found the testimony of eight different men that said they had undervalued?

A. I think it is either eight or ten.

Q. Did any of those men say that they had willfully and intentionally undervalued?

A. I don't know as they expressed it in those terms.

Q. Willfully or intentionally?

A. No, I don't know as they expressed it in those terms either.

Q. I ask you if from your examination of your notes you can state whether it was the practice of the tax commissioners or any of them to ask the direct question whether a supervisor had undervalued.

Mr. BUTTERFIELD: I object to it as immaterial and incompetent.

A. Sometimes it was asked and sometimes it was not.

Q. Was it asked frequently or very seldom?

Mr. BUTTERFIELD: The same objection.

A. It was not asked very frequently during that year.

Q. Let me ask you if it was not usually assumed by the tax commissioners, basing their judgment on the field man's report that there was an undervaluation, and the question was framed in this way: "If there is an undervaluation have you attempted to treat everybody equally?"

A. That question has been asked.

Q. Isn't that the form that their questions usually took?

Mr. ANGELL: I object to it as immaterial and incompetent.

A. No, I think the question usually asked is without reference to whether they have underassessed or not. They are asked
712 whether they assessed all property equally.

Q. And were not asked whether they had underassessed or not?

A. I don't think it is very often asked that way.

Q. Can you tell me who the eight men were that said they had undervalued?

A. I cannot give the names; I can tell the places where those reviews were.

Q. You don't remember finding the testimony of any supervisor who said that he had intentionally and wilfully undervalued?

Mr. ANGELL: I object to the question as leading, immaterial and incompetent.

A. I don't remember its being stated in that way, that they wilfully and intentionally did it.

Cross-examination by Mr. ANGELL:

— You have heard the testimony in this case of the State tax commissioners.

A. Not to amount to anything.

Q. Do you know what they testified to in relation to this matter of supervisors admitting undervaluation to them?

A. I cannot say that I do.

Q. Were you present at all the interview- with supervisors which the tax commissioners held?

A. No sir, I don't think I was at all of them.

Q. If their testimony should be in fact that a large number of supervisors had admitted to them undervaluation, you wish to be understood as contradicting it?

713 A. In what way do you mean?

Q. The difference between ten and a very large number of supervisors.

A. Do you mean the testimony given under oath or do you mean statements made to the members of the board?

Q. Either way.

A. Well which way?

Q. Either way.

A. I can't say anything in regard to what supervisors may have told members of the board.

Q. Your notes only cover cases where they have been put under oath?

A. Yes sir.

Q. And were examined under oath by a member of the State board.

A. Yes sir.

Q. But as to unsworn conversations or admissions you are not competent to testify.

A. No sir.

714 "Mr. WYKES: I desire to read two letters into the record, with the understanding with counsel for complainants, that the writers of those letters in one instance the attorney general of the State of California, and in the other a member of the State board of equalization of the State of California, would have testified to the facts therein set forth, had they been put on the witness stand, and that they stand the same as though they had so testified, subject to legal objections.

Mr. BUTTERFIELD: The testimony is objected to as incompetent and irrelevant."

715 (3.)

March 24, 1904.

STATE OF CALIFORNIA:

Office of the Attorney General—U. S. Webb, Attorney General.

SAN FRANCISCO, CAL., February 3, 1904.

Mr. Chas. A. Blair, attorney general, Lansing, Michigan.

DEAR SIR: Your favor of January 8th is before me. You ask for information "as to whether the State board of equalization of

California, in assessing the railroad property of your State to the railway companies, deducts the mortgage, or bond, or other indebtedness, and makes a — assessment of the items to the holders, in accordance with the decisions of Mr. Justice Fields in the case of *County of San Mateo v. D. P. R. Co.*, 13 Fed. Rep. 722, and *County of Santa Clara vs. S. P. R. Co.*, 18 Fed. 385."

In reply, will say that at the time I received your letter I was not fully advised as to the views entertained by the State board of equalization on the subject mentioned by you, and I have taken occasion to refer your letter to that board for information. I learned from that board that railway companies have been assessed in the State of California according to the letter of section 4, article XIII of the constitution of 1879; that such assessments have at all times been accepted and no objection has been made either to the board or otherwise, concerning such assessments.

In the case of *People vs. C. P. R. R. Co.*, 105 Cal. 576, which was appealed to the United States Supreme Court and is reported in vol. 162, U. S. 91 the rule seems to be stated by the courts that railway companies which submit to the jurisdiction of the
716 State board of equalization and make no objection to that board concerning their assessments, may not subsequently be heard to complain. However whatever may be views entertained by either the railway companies and their counsel, I may say, the practice has been as stated above.

You further ask for the names and address of the attorneys who represented the parties to the cases referred to by you. In the case first cited by you, you will find the names of the attorneys on page 727 of the 13th Fed. Rep. Of the names there given, will say that A. L. Rhodes is at the present time superior judge of Santa Clara county; A. L. Hart, then attorney general, Creed Haymond, and J. Norton Pomeroy are deceased; Y. I. Bergin has his offices at #30 Nevada block, San Francisco; T. B. Bishop has his office in the Hobart building, San Francisco.

In the case reported in 18 Fed. 385, you will find the names of the attorneys printed on page 387. E. C. Marshall, the then attorney general, is deceased; D. M. Delmas has his office in this building; W. T. Baggett has his office in the Hearst building, San Francisco; J. H. Campbell is at present district attorney, San Jose, Santa Clara Co., California; S. W. Sanderson, J. N. Pomeroy, H. S. Brown and P. D. Wiggington are all deceased; S. C. Denson is also deceased; T. I. Bergin is the same person mentioned above. I think you will find that A. L. Rhodes, T. I. Bergin, W. T. Baggett and D. M. Delmas were the leading attorneys in the litigation.

Any further information I can give you will be given with pleasure.

Yours very truly,

U. S. WEBB,
Attorney General.

717

(2.)

March 24, 1904.

LAW Offices of William H. Alford, Mutual Savings Bank Building,
708 Market Street, San Francisco, Cal.

SAN FRANCISCO, February 4, 1904.

Hon. Roger Irving Wykes, ass't attorney general, attorney general's
office, Lansing, Michigan.

MY DEAR SIR: Upon my return to San Francisco, a short time ago,
your favor of January 8th, was handed to me. I am sorry to have
missed you when you called at my office.

Referring to the question which you asked as to what has been
the course of the State board of equalization in assessing railroad
properties, I will say that I have been on the board only one year,
but from the best of information, the board has followed the cases
cited in your letter.

(County of San Mateo *vs.* Southern Pac. R. Co., 15 Fed. Rep.
722, and County of Santa Clara *vs.* Southern Pac. R. R. Co.,
18 Fed. Rep. 385.)

The board of equalization of this State has been following the de-
cisions in

People *vs.* Central Pacific Railroad Co., 105 Cal., 576, also
162 U. S. Rep. 81; also 18 Wall 5.

These cases hold, as you will see, that a State has the power to levy
taxes upon a franchise granted by the State and that a State fran-
chise for a railroad is an entirely different thing from a Federal
franchise for the same road.

They hold also that individuals (including corporations) may be
classified for the purpose of taxation, if they constitute classes requir-
ing legislation peculiar to themselves, etc.

718 #2. R / I. W.

For the same reasons, in assessing railroad properties we fol-
low our constitution and do not deduct any mortgage or bonded
or other indebtedness in making assessment. Our board makes no
separate assessment on these securities to the holders for the reason
that we have no power to assess bonds or mortgages. Our power as
assessor is limited exclusively to railroad properties.

Trusting this furnishes you with the information desired, I re-
main

Yours respectfully,

WM. H. ALFORD.

Direct examination—Mr. BLAIR:

Clerk in the office or auditor general; computed from records in that office the tax rate paid by property generally in the several counties through which the several complainant railroad companies' railroads run, taking the total tax given by the returns of assessing officers and dividing by total valuation fixed by boards of review.

These percentages are:

Railroad.	Counties in which land owned.	Average rate.
Munising Ry.	Alger, Marquette. ....	.02167+
Duluth, S. S. & Atl.	Alger, Baraga, Chippewa, Gogebic, Houghton, Luce, Mackinac, Marquette, Ontonagon, Schoolcraft. ....	.01479+
Chi. & N. W.	Alger, Delta, Dickinson, Gogebic, Iron, Marquette, Menominee, Ontonagon. ....	.02526+
M., St. P. & Ste. M.	Alger, Chippewa, Delta, Mackinac, Menominee, Schoolcraft. ....	.02855+
Chi., Mil. & St. P.	Baraga, Dickinson, Houghton, Iron, Marquette, Ontonagon, Delta, Menominee. ....	.01395+
G. R. & I.	Allegan, Charlevoix, Emmet, Grand Traverse, Kalamazoo, Kalkaska, Kent, Mecosta, Montcalm, Osceola, Otsego, St. Joseph, Wexford, Missaukee, Cheboygan. ....	.01558+
I. S. & M. S.	Allegan, Branch, Calhoun, Eaton, Hillsdale, Ingham, Jackson, Kalamazoo, Kent, Lenawee, Monroe, St. Joseph, Washtenaw, Wayne, Barry. ....	.01629+
Pontiac, Ox. & No.	Huron, Lapeer, Oakland, Tuscola. ....	.01377+
Ann Arbor.	Benzie, Clare, Clinton, Gratiot, Isabella, Livingston, Manistee, Missaukee, Monroe, Osceola, Shiawassee, Washtenaw, Wexford. ....	.01622+
Gogebic & Mont. River.	Gogebic. ....	.02655+
Lake Sup. & Ish.	Marquette. ....	.0207 +
Marquette & S. E.	Marquette. ....	.0207 +
Copper Range.	Houghton, Ontonagon. ....	.00858+
Escanaba & Lake Sup.	Delta, Dickinson, Marquette. ....	.01746+
Wis. & Mich.	Menominee, Dickinson. ....	.02467+
G. T. & W.	Calhoun, Cass, Eaton, Genesee, Ingham, Kalamazoo, Lapeer, Shiawassee, St. Clair, St. Joseph. ....	.01470+
D., G., H. & M.	Clinton, Genesee, Ionia, Kent, Oakland, Ottawa, Shiawassee, Wayne. ....	.01732+
Mich. Air Line.	Ingham, Jackson, Livingston, McComb, Oakland. ....	.01254+
T., Sag. & Mus.	Gratiot, Kent, Montcalm, Muskegon. ....	.0158 +
Cin., Sag. & Mack.	Bay, Shiawassee, Saginaw. ....	.01452+
D. & M.	Alcona, Alpena, Arenac, Bay, Cheboygan, Iosco, Montmorency, Ogemaw, Otsego, Presque Isle. ....	.02539+
Manistee & N. E.	Benzie, Grand Traverse, Leelanau, Manistee. ....	.01887+
Mineral Range.	Baraga, Houghton, Keweenaw, Ontonagon. ....	.00905+

Railroad.	Counties in which land owned.	Average rate.
Chi., Det. & Can. G. T. Jct.	St. Clair.....	.01282+
St. Clair Tunnel Co.....	St. Clair .....	.01282+
S. Ste. Marie Bridge Co.....	Chippewa.....	.02589+
Pere Marquette	Allegan, Antrim, Bay, Benzie, Berrien, Charlevoix, Clare, Clinton, Eaton, Emmet, Gladwin, Grand Traverse, Gratiot, Huron, Ingham, Ionia, Isabella, Kalamazoo, Kent, Lake, Lapeer, Livingston, Macomb, Manistee, Mason, Mecosta, Midland, Monroe, Montcalm, Muskegon, Newaygo, Oakland, Oceana, Osceola, Ottawa, Saginaw, Sanilac, St. Clair, Tuscola, Van Buren, Washtenaw, Wayne .....	.01728+
Michigan Central	Barry, Bay, Berrien, Branch, Calhoun, Cass, Cheboygan, Clinton, Crawford, Eaton, Genesee, Gladwin, Ingham, Jackson, Kalamazoo, Kent, Lapeer, Macomb, Monroe, Oakland, Ogemaw, Otsego, Roscommon, Saginaw, Shiawassee, St. Joseph, Tuscola, Van Buren, Washtenaw, Wayne, Arenac.....	.01640+

(1794-99)

720 I think I ought to explain that the bill of complaint does not include Arenac county, the railroad runs directly through Arenac county and I didn't know what to do, so I put it in.

The road is .01640 plus.

Q. Have you here the assessment roll of the State board of assessors for 1902?

A. I have, yes sir.

(Witness presents roll.)

Q. That is the original roll is it?

A. That is the roll made after the supreme court had handed down that decision.

Q. Will you state what corporations are assessed upon that roll?

A. You want only those which are assessed?

Q. Give all of them.

A. There are some names in this roll but there is no tax levied against them; the Alpena, Gaylord & Western Railroad Company, for instance.

Q. I ask you to read those that there has been a tax levied upon.

A. The Ann Arbor Railroad Company.

The Arcadia & Betsy River Railroad Company.

The Ausable & Western Railroad Company.

The Bear Lake and Eastern Railroad Company.

The Boyne City & Southeastern Railroad Company.

The Chicago, Kalamazoo & Saginaw Railroad Company.

- The Chicago, Milwaukee & St. Paul Railway Company.
 721 The Chicago & Northwestern Railway Company.
 The Cincinnati, Northern Railroad Company.
 The Cleveland, Cincinnati, Chicago & St. Louis Railway Company.
 The Crawford & Manistee River Railway Company.
 The Copper Range Railroad Company.
 The Detroit & Charlevoix Railroad Company.
 The Detroit & Mackinaw Railway Company.
 The Detroit Southern Railroad Company.
 The Detroit & Toledo Shore Line Railroad Company.
 The Detroit Union Railroad Depot & Station Company.
 The Duluth South Shore & Atlantic Railway Company.
 Q. Do you know anything about that Detroit & Toledo Shore Line Company, do you know anything about it other than the fact that it appears on the roll?
 A. No sir, I don't.
 Detroit, Toledo & Milwaukee Railroad Company.
 East Jordan & Southern Railroad Company.
 Escanaba & Lake Superior Railroad Company.
 Fort Street Union Depot Company.
 Grand Rapids & Indiana Railway Company.
 Muskegon, Grand Rapids & Indiana Railway Company.
 Traverse City Railroad Company.
 Grand Trunk Western Railroad Company.
 Chicago, Detroit & Canada Grand Trunk Junction Railway Company.
 Cincinnati, Saginaw & Mackinaw Railroad Company leased to the Grand Trunk Railway Company of Canada.
 722 Michigan Air Line Railway leased to the Grand Trunk Railway Company of Canada.
 Detroit, Grand Haven & Milwaukee Railroad Company.
 St. Clair Tunnel Company.
 Toledo, Saginaw & Muskegon Railway Company.
 Hecla & Torch Lake Railroad Company.
 St. Joseph, South Bend & Southern Railroad leased to the Indiana, Illinois & Iowa Railroad Company.
 Lake Superior & Ishpeming Railroad Company.
 Lewiston & Southern Railroad Company.
 Lake Shore & Michigan Southern Railway Company.
 Detroit & Chicago Railroad Company.
 Detroit, Hillsdale & Southwestern Railway Company.
 Detroit, Monroe & Toledo Railroad Company.
 Fort Wayne & Jackson Railroad Company.
 Kalamazoo, Allegan & Grand Rapids, Railroad Company.
 Kalamazoo & White Pigeon Railroad Company.
 The Northern Central Michigan Railroad Company.
 The Sturgis, Coshen & St. Louis Railroad Company.
 The Manistee & Grand Rapids Railroad Company.

- The Manistee & Luther Railroad Company.
 The Manistee & Northeastern Railroad Company.
 The Manistique Railroad Company.
 Manistique, Marquette & Northern Railroad Company.
 The Marquette & Southeastern Railroad Company.
 Mason & Oceana Railroad Company.
 Michigan Suburban Railroad Company.
 Michigan Central Railroad Company.
 723 Battle Creek & Sturgis Railway Company.
 Bay City & Battle Creek Railway Company.
 Buchanan & St. Joseph River Railroad Company.
 Canada Southern Bridge Company.
 The Detroit & Bay City Railroad Company.
 The Detroit, Delrey & Dearborn Railroad Company.
 The Grand River Valley Railroad Company.
 The Jackson, Lansing & Saginaw Railroad Company.
 The Kalamazoo & South Haven Railroad Company.
 The Michigan Air Line Railroad Company.
 The Michigan, Midland & Canada Railroad Company.
 The Toledo, Canada Southern & Detroit Railway Company.
 Milwaukee, Benton Harbor & Columbus Railway Company.
 The Mineral Range Railroad Company operating the Mineral
 Range Railroad Company and the Hancock & Calumet railroad.
 Minneapolis, St. Paul & Sault Ste Marie, Railroad Company.
 The Munising Railway Company.
 Onaway & North Michigan Railway Company.
 Port Huron & Southern Railway Company.
 The Pere Marquette, Railroad Company.
 The Grand Rapids, Belding & Saginaw Railroad Company.
 The Bay City Belt Line Railroad Company.
 The Grand Rapids, Kalakaska & Southeastern Railroad Company.
 The Saginaw, Tuscola & Huron Railroad Company.
 The Pontiac, Oxford & Northern Railroad Company.
 724 The Quincy & Torch Lake Railroad Company.
 The Rapid Railroad Company.
 Q. Do you know anything about that?
 A. Well I have an idea it is an electric road, that is all.
 Q. Is there a tax assessed against that?
 A. Yes sir.
 Q. Do you know whether it is the electric road that runs from
 Detroit to Port Huron?
 A. I do not.
 The Sault Ste. Marie Bridge Company.
 The South Haven & Eastern Railroad Company.
 The Toledo & Monroe Railway Company.
 The Wabash Railroad Company.
 The Wisconsin & Michigan Railway Company.
 The Wisconsin Central Railway Company operating the Gogebic
 & Montreal railroad.

Then we have the express companies and freight lines.

Q. I will have you read all that there has been a tax assessed against covered by that assessment roll.

A.—

The Adams Express Company.

The American Express Co.

The Canadian Express Co.

The Pacific Express Co.

The United Express Co.

The Western Express Co.

The Adamson Stock Car Co.

The American Car Co.

725 The American Cereal Co. Dispatch.

The American Cotton Oil Co.

The American Distributing Co.

The American Fast Freight Line.

The American Livestock Transportation Co.

The American Refrigerator Transit Co.

The American Tank Line.

The Anglo-American Refrigerator Car Co.

The Armour Car Lines.

The Arms Palace Horse Car Co.

Black River Transportation Co.

Q. Is there a different heading at the top of those?

A. No sir, there is no different heading, they are put in a separate part of the book but in the recapitulation they are separated.

Booths Coal Storage system.

Buckeye Transportation Co. successors to the Cincinnati Abbator Co.

Burton Stock Car Co.

California Fruit Transportation Co.

California Fruit Express Co.

Canda Cattle Car Co.

Cedar Rapids Refrigerator Express.

Chicago, New York & Boston Refrigerator Co.

Coal Blast Transportation Co.

Commercial Dispatch.

Consolidated Cattle Car Company.

Consolidated Rolling Stock Co.

726 Continental Fruit Express.

Cudahy Milwaukee Refrigerator Line.

Cudahy Stock Express.

Dairy and Dressed Poultry Line.

Dairy Dealers Dispatch.

Dairy Shipper Dispatch.

Diamond Car Line.

The Jacob Dole Packing Company and Refrigerator Car Line.

Express Coal Line.

Express Freight Line.

- German American Refrigerator Line.
- Hackett Refrigerator Car Company.
- Hammond Refrigerator Line.
- Horlick's Food Company Car Line.
- Kansas City Refrigerator Car Company.
- Keystone Livestock Express.
- Kingan Refrigerator Line.
- Lake Carriers Oil Co.
- Libbey McNeil & Libbey Refrigerator Line.
- Lipton Car Lines.
- Live Poultry Transportation Co.
- Mather, Horse & Stock Car Company.
- Merchants Dispatch Transportation Co.
- Midland Linseed Dispatch.
- Missouri Car Storage, & Repair Co.
- Morrell Refrigerator Line.
- National Car Co.
- 726½ National Rolling Stock Co.
- New England Car Co.
- North & South Rolling Stock Co.
- Pabst Refrigerator Line.
- Pacific Stock Express.
- Peerless Transit Line.
- Produce Shippers Dispatch.
- Provision Dealers Dispatch.
- W. P. Rend Transportation Co.
- St. Charles Refrigerator Dispatch.
- St. Louis Car Co.
- St. Louis Dressed Beef & Provision Refrigerator Line.
- St. Louis Refrigerator Car Co.
- Shippers Refrigerator Car Co., Southeastern Line.
- Southern Dispatch Lumber Line.
- Southern Freight Line.
- Southern Iron Car Line.
- Special Freight Dispatch.
- Squires Car Line. (Correct name, Boston Livestock Lines)
- Streets Western Stable Car Line.
- Swift Refrigerator Transportation Co.
- Union Refrigerator Transit Co.
- Union Tank Line Co.
- Venice Transportation Co.
- Western Livestock Express.
- Western Refrigerator Line.
- Western Refrigerator Transit Co.

727 On motion of the board the following named railroad corporations and the properties thereof subject to taxation under act 173, public acts of 1901 having been omitted from such assessment roll were placed thereon in the following form, namely :
 The Grand Rapids, Belding & Saginaw Railroad Company: De-

scription as follows: Railroad, rolling stock, right-of-way and appurtenances thereto and all other property used in carrying on the corporate business and subject to taxation by the State board of assessors.

The valuation was placed at \$275,000.

The Bay City Belt Line Railroad Company. Same description as above. Valuation \$100,000.

The Grand Rapids, Kalkaska & Southeastern Railroad Company. Same description as above. Valuation \$375,000.

The Saginaw, Tuscola & Huron Railway Co. The same description as above. \$700,000.

The Alpena, Gaylord & Western Railway Co. Same description as above. \$500.

The Alpena & Western Railway Co. Same description as above. \$500.

The Central Michigan Railroad Co. Same description as above. \$1000.

The Grand Rapids, Kalamazoo & South Haven Traction Co. Same description as above. \$1000.

The Sanilac Railroad Company. Same description as above. \$2000.

The Travers City, Leelanau & Manistique Railroad Co.

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Pages 1808 & 1809 of Record.

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A. Page 49. "Statement of the method pursued by the State board of assessors in re-ascertaining and re-determining in accordance with the provisions of act 173 of the public acts of 1901, section 11 of article 14 of the constitution and the order of the supreme court of the State of Michigan. The average rate of taxation hereinafter recorded.

The said State board of assessors in accordance with and within the time fixed by said act 173 required and received from the several counties and municipalities throughout the State, the reports and information provided for and required by said act 173 of the public acts of 1901, and after the determination of the said supreme court that the taxes previously levied by it under the provisions of said act were illegal for the reason that such average rate was not ascertained and determined according to law proceeded thereon in accordance with the provisions of said act, constitutional provision and the order of said court to re-ascertain and re-determine the average rate of taxation throughout the State upon property (other than that subject to assessment by the State board of assessors under said act) upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes for the year 1902 as follows:

a. It is ascertained from the said reports and information so received that the aggregate ad valorem taxes levied in the several municipalities of the several counties of the State for

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State, county, township, school and municipal purposes (not

including taxes levied for any other purpose) for the year 1902 was the sum of twenty-three million four hundred seventy-six thousand, seven hundred thirty-three dollars and fifty-five cents (\$23,476,733.55.)

b. It examined and considered the said reports and information so required and received and from the same ascertained and determined the aggregate assessed valuation of all the property in the State upon which ad valorem taxes were levied for State, county, township, school and municipal purposes for the year 1902 (other than that subject to assessment by the State board of assessors) as assessed by the several assessing officers of the several municipalities of the State to be the sum of one billion, four hundred eighteen million, two hundred fifty-one thousand eight hundred and fifty-eight dollars. (\$1,418,251,858.)

c. The average rate was then determined to be \$16.55329 on each one thousand dollars of assessed valuation by dividing the total tax so levied in the amount so determined by the total assessed valuation of properties subject to ad valorem taxes for State county township, school and municipal purposes found as aforesaid.

Done at the city of Detroit, Michigan, this 9th day of May, 1903.

William T. Dust, James C. McLaughlin, Amariah F. Freeman, members of the State board of assessors.

Mr. BLAIR: That is all.

Mr. BUTTERFIELD: I have no cross examination.

731 F. O. GULLIFER, recalled for complainant.

Direct examination—Mr. BUTTERFIELD:

Witness' attention called to Table No. 10, appearing in Exhibit C. (That table contains all items that went into dividend and divisor in computation of last average rate, and all of items were made use of in dividend and divisor except last percentage column.)

Cross-examination—Mr. TOWNSEND:

Any drain tax spread at large reported to us was included, but no others.

(The certificate of the State board of assessors, setting forth the method of re-ascertaining average rate for 1902, sets forth that the aggregate ad valorem taxes used as a dividend were those "levied in the several municipalities of the several counties of the State, for State, county, township, school, and municipal purposes, (not including taxes levied for any other purpose).")

(See table in report of State Board of Assessors for 1902, Exhibit C, pp. 140 and 141.)

732 Portions of Exhibit "F" attached to the bill of complaint, being the report of the State board of equalization for the year 1901.

Offered by complainant.

LANSING, MICH., Aug. 19, 1901.

In accordance with the provisions of act 106, laws of 1851, (section 136 of the compiled laws,) the State board of equalization of the State of Michigan met in the senate chamber at the capitol in the city of Lansing on Monday, August 19th, 1901, (the third Monday of August,) at two o'clock in the afternoon.

The roll of members was called by Jason E. Hammond, one of the employes in the office of the auditor general, the entire board being present, viz :

Hon. Orrin W. Robinson, lieutenant governor.

Hon. Fred. M. Warner, secretary of state.

Hon. Daniel McCoy, state treasurer.

Hon. Perry F. Powers, auditor general.

Hon. Edwin A. Wildey, commissioner of the State land office.

Page 5, EXHIBIT F.

The CHAIRMAN : " We have met under the State law providing for an equalization of the taxes of the several counties of the State. The law further provides that each county may be heard. There are several gentlemen here, who I presume are present for the purpose of representing the different counties throughout the State. Also we have a new feature in our State equalization in the shape of the tax commission, which is an advisory board to this board, some of the members of which are here.

" It will be the policy of the board of equalization to listen to the statements made by the gentlemen who represent the several counties here, and following the statement of each gentleman if the tax commission desires to cross-examine or ask any questions, they will have an opportunity at that time to do so. So that when this board comes to weigh the evidence they will have before them each county by itself. That is the policy agreed upon by the equalization board.

734 Following the statement of the representative of the county, if the tax commission desires to ask any questions, the proper time to do it will be at that time.

Page 9, EXHIBIT F.

LANSING, MICH., August 20, 1901.

The board met, pursuant to adjournment, at two o'clock in the afternoon, the entire board being present.

The CHAIRMAN : " During the adjournment, the board has had a conference with the tax commission, and they have authorized the chairman to make this statement : That the figures or valuations as

made by the tax commission will in due time be presented to the board of equalization for their consideration; that time will probably be within the next ten days. After the hearing is had from the counties, there will be an adjournment of this board for a few weeks to write up the evidence. In the meantime, the figures of the tax commission will be published in all the papers throughout the State, and at the convenience of this board, notice will be given when it will convene, and a day set for a hearing on the valuations as placed by the tax commission from all such counties as desire to come here and have a hearing on that point. We will continue the hearing as we have been proceeding so far, with the tax commission privileged to ask questions. I understand that within ten or twelve days the figures of the tax commission will be published in all the papers so that all the State will have them and a hearing will be had."

Mr. POWERS: "I would make a motion at this time, that inasmuch as the State tax commission has compiled certain information, which later they are going to place before this board for its information, in the line of its duty, and that as there appears to be a desire on the part of those present to know now what this information is that they are going to give the State board of equalization,

I would move that such information as they have compiled and prepared, be placed at the disposition of the representatives of the counties who are here for the purpose of getting this information.

It should be stated in connection with this that the State board of equalization, of course, has not gone over with the State tax commissioners this information, as to how it was gotten and have not yet placed the value upon it which they may place or the value that may be placed upon it one way or the other after they have received the detailed information, which the State tax commission will give them. But, such as it is, I think no harm can come from it and much good may be served by putting it at the disposal of the persons who are now here representing the several counties of the State.

And I therefore move that this information be placed at the disposal of the representatives of the counties."

Which motion was supported by Mr. Warner and declared carried by the chairman."

Page 11, EXHIBIT F.

Mr. McCoy offered the following resolution:

Resolved, That this board adjourn to Monday, the 16th day of September at 2:30 p. m., on which date opportunity will be given all counties who desire to be heard in rebuttal of the figures furnished by the tax commission concerning their respective counties.

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Page 11, EXHIBIT F.

LANSING, MICH., Sept. 16, 1901.

The Secretary reported that the correspondence with the Hon. H. M. Oren, attorney general, regarding the powers and duties of the State board of equalization was in his hands. It was agreed that inasmuch as this correspondence had been published in the Detroit newspapers, that the reading of the same at the present time be dispensed with. (This correspondence is printed in full on a later page).

Page 12, EXHIBIT F.

LANSING, MICH., Sept. 17, 1901.

The board met at 2:30 p. m. in the office of the lieutenant governor and immediately took up the work of equalization, using comparative tables prepared for use.

On motion of Mr. Powers, seconded by Mr. McCoy, the following resolutions were adopted:

Whereas, this board has examined the statements of the assessment for 1901 and of the equalization made by the boards of supervisors of the several counties at the June session of said boards, as certified by the chairman and clerks of said boards and reported to the auditor general, and has also heard the representatives of the several boards of supervisors, and examined the statistics prepared by the State board of tax commissioners which tend to show the character and value of property in the several counties; and,

Whereas, from such examinations and hearings, this board finds that the relative value between the several counties as assessed for the year 1901 and equalized by the boards of supervisors as aforesaid is not equal and uniform according to location, soil, improvements, production and manufactories, but that such assessment and valuation are relatively unequal as between the several counties; and,

Whereas, the board finds further from its examination of
737 said reports and statistics that the personal estate of the several counties has not been uniformly estimated; therefore,

Resolved That this board equalize such assessments as provided in section 132 of the compiled laws.

Page 13, EXHIBIT F.

LANSING, Mich., Sept. 18, 1901.

The board met at 9:30, and the entire day, with the exception of the noon recess, was devoted to a careful review and comparison of the counties.

The following resolution offered by Mr. Wildey and seconded by Mr. McCoy was unanimously adopted.

Resolved That the assessment of the several counties in the State of Michigan be and it is hereby equalized as follows:

Counties.	Valuation as equalized by boards of supervisors in 1901.	Amount added by State board of equalization in 1901.	Amount deducted by State board of equalization in 1901.	Aggregate of valuation as equalized by State board of equalization in 1901.
Alcona	\$1,107,512.	\$192,488.	.....	\$1,300,000.
Alger	2,547,402.	557,598.	.....	3,100,000.
Allegan	18,000,000.	3,000,000.	.....	21,000,000.
Alpena	4,500,000.	500,000.	.....	5,000,000.
Antrim	4,325,833.	1,174,167.	.....	5,500,000.
Arenac	1,800,000.	294,000.	.....	2,100,000.
Barnes	1,793,838.	906,162.	.....	2,700,000.
Barry	10,918,477.	4,081,523.	.....	15,000,000.
Bay	23,571,508.	8,428,492.	.....	32,000,000.
Benzie	2,776,239.	423,761.	.....	3,200,000.
Berrien	25,224,823.	4,775,177.	.....	30,000,000.
Branch	16,261,730.	3,238,270.	.....	19,500,000.
Calhoun	30,433,668.	6,566,332.	.....	37,000,000.
Cass	12,415,000.	3,085,000.	.....	15,500,000.
Charlevoix	3,595,827.	604,173.	.....	4,200,000.
Cheboygan	3,400,000.	1,100,000.	.....	4,500,000.
Chippewa	10,035,627.	2,464,373.	.....	12,500,000.
Clare	1,411,333.	788,667.	.....	2,200,000.
Clinton	17,211,805.	2,788,195.	.....	20,000,000.
Crawford	974,333.	225,677.	.....	1,200,000.
Delta	6,977,088.	2,422,912.	.....	9,400,000.
Dickinson	7,000,000.	4,200,000.	.....	11,200,000.
Eaton	15,000,000.	6,000,000.	.....	21,000,000.
Emmet	5,814,939.	2,185,061.	8,000,000.
Genesee	24,543,876.	4,956,124.	29,500,000.
Gladwin	1,689,999.	410,001.	2,100,000.
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Gogebic	8,956,200.	5,043,800.	14,000,000.
Gd. Traverse	7,900,000.	1,600,000.	9,500,000.
Gratiot	10,987,700.	4,512,300.	15,500,000.
Hillsdale	16,828,400.	4,171,600.	.....	21,000,000.
Houghton	98,425,000.	41,575,000.	.....	140,000,000.
Huron	11,004,396.	2,395,604.	.....	13,400,000.
Ingham	18,000,000.	9,500,000.	.....	27,500,000.
Ionia	17,306,539.	4,193,461.	.....	21,500,000.
Iosco	1,800,000.	100,000.	.....	1,900,000.
Iron	4,508,000.	1,402,000.	.....	6,000,000.
Isabella	5,000,000.	2,500,000.	.....	7,500,000.
Jackson	30,000,000.	6,000,000.	.....	36,000,000.
Kalamazoo	24,302,267.	5,697,733.	.....	30,000,000.
Kalkaska	2,852,091.	647,909.	.....	3,500,000.
Kent	50,000,000.	40,000,000.	.....	90,000,000.
Keweenaw	3,062,394.	937,606.	.....	4,000,000.
Lake	1,177,287.	222,713.	.....	1,400,000.
Lapeer	13,734,000.	766,000.	.....	14,500,000.
Leelanau	2,170,030.	529,970.	.....	2,700,000.
Lenawee	27,632,240.	6,367,760.	.....	34,000,000.
Livingston	12,500,000.	3,500,000.	.....	16,000,000.
Luce	1,559,000.	441,000.	.....	2,000,000.
Mackinac	2,077,553.	422,447.	.....	2,500,000.
Macomb	20,036,000.	4,964,000.	.....	25,000,000.
Manistee	11,198,810.	2,301,190.	.....	13,500,000.
Marquette	18,718,000.	11,282,000.	.....	30,000,000.
Mason	6,464,769.	1,035,231.	.....	7,500,000.

Counties.	Valuation as equalized by boards of supervisors in 1901.	Amount added by State board of equalization in 1901.	Amount deducted by State board of equalization in 1901.	Aggregate of valuation as equalized by State board of equalization in 1901.
Mecosta	\$3,794,150.	\$1,205,850.		\$5,000,000.
Menominee	10,112,386.	3,387,614.		13,500,000.
Midland	3,100,000.	1,400,000.		4,500,000.
Missaukee	2,147,298.	852,702.		3,000,000.
Monroe	16,948,900.	3,551,100.		29,500,000.
Montcalm	7,000,000.	6,000,000.		13,000,000.
Montmorency	964,800.	535,200.		1,500,000.
Muskegon	12,158,646.	2,341,354.		14,500,000.
Newaygo	4,772,985.	1,227,005.		6,000,000.
Oakland	29,505,275.	4,494,725.		34,000,000.
Oceana	5,081,968.	918,032.		6,000,000.
Ogemaw	1,962,000.	338,000.		2,300,000.
Ontonagon	3,704,619.	4,295,381.		8,000,000.
Osceola	3,452,630.	2,047,370.		5,500,000.
Oscoda	533,280.	166,720.		700,000.
Otsego	2,406,410.	593,590.		3,000,000.
Ottawa	16,700,000.	4,800,000.		21,500,000.
Presque Isle	2,708,553.	291,447.		3,000,000.
Roscommon	393,424.	106,576.		500,000.
Saginaw	35,163,656.	6,836,344.		42,000,000.
St. Clair	23,563,000.	6,437,000.		30,000,000.
St. Joseph	15,002,018.	2,997,982.		18,000,000.
Sanilac	10,981,022.	3,018,978.		14,000,000.
Schoolcraft	2,800,055.	1,199,945.		4,000,000.
Shiawassee	13,797,750.	7,702,250.		21,500,000.
Tuscola	14,351,897.	3,148,103.		17,500,000.
Van Buren	13,085,000.	2,915,000.		16,000,000.
Washtenaw	33,939,760.	3,060,240.		37,000,000.
Wayne	258,740,500.	38,259,500.		297,000,000.
Wexford	5,401,500.	598,500.		6,000,000.
Totals..	\$1,235,807,025.	\$342,292,975.		\$1,578,100,000.

On motion of Mr. Powers, the board of State auditors were authorized to examine the bills of stenographer, secretary and the members of the board, and all bills for printing, telegrams, etc., and audit the same.

On motion of Mr. McCoy, the secretary was instructed to prepare a table, showing by counties the valuation, according to the estimates of the tax commission, the assessed valuation by county boards of supervisors, the equalization by the State board of equalization in 1901, the equalization by the State board of equalization in 1896, and the percentage of the entire valuation borne by each county according to the last two equalizations.

On motion of Mr. Warner, the secretary was directed to send copies of the printed record of proceedings to all assessing offi-

cers, to representatives of counties who appeared before the board, to county clerks and county treasurers, and to deposit the remaining copies in the auditor general's department for the supplying of future demands therefor.

On motion of Mr. Wildey, the secretary was authorized to return original records and valuable maps, or similar exhibits, to the parties by whom they were filed.

The minutes of the several sessions of the board, August 19-23 and September 16-18, inclusive, were read and approved.

On motion of Mr. McCoy, seconded by Mr. Powers, the board adjourned *sine die* at 6:00 p. m.

Office of State Board of Equalization,

LANSING, MICH., Sept. 18, 1901.

We hereby certify that the foregoing is a full and correct report of the proceedings of the State board of equalization at its session in 1901.

ORRIN W. ROBINSON, Chairman.
JASON E. HAMMOND, Secretary.

740 Mr. WYKES: We move to strike from the record Exhibit F of the bill of complaint so far as it has been introduced in evidence, and particularly to the table attached thereto, showing valuations and percentages in the several townships on the ground that such table is not a table required to be prepared by the resolution of the State board of equalization, and that no authority of law existed for its preparation or inclusion in the report of the State board of equalization.

741 Physical Appraisal of Railroad Properties.

The defendant introduced the testimony of Prof. Mortimer E. Cooley, dean of the department of engineering of the University of Michigan, and of a large number of civil and mechanical engineers, (all of which was uncontradicted), that they had together, under the direction and supervision of said Cooley, made an appraisal of the physical properties of the various railroads concerned in the litigation herein for the year 1900 as of November of that year, and that in the year 1903, after this suit was begun, they made another appraisal of said physical properties as of April 15, 1902, and that the cost of re-producing such physical properties at said respective dates, after making proper deductions therefrom on account of depreciation from use and wear, is as shown by the following table,—no cash, accounts, materials or supplies being included in the 1900 appraisal:

Name of road.	1900. Physical.	1902. Physical.	1902. Cash, accounts, records, ma- terials, & sup- plies.	1902. Total physical, cash, supplies, etc.
Ann Arbor.....	\$6,023,762			
Menominee & St. Paul.....	36,183			
Ann Arbor system.....	6,009,945	6,978,346	569,969	7,548,315
Chi. Mil. & St. Paul.....	2,651,153	3,687,816		
Chicago & Northwestern.....	13,106,148	14,825,191		
Copper Range.....	1,151,701	2,713,943	68,784	2,782,727
Detroit & Mackinac.....	3,455,914	3,976,427	136,920	4,113,347
Duluth, S. S. & Atl.....	8,770,724	9,087,095	466,593	9,553,688
Escanaba & L. Superior.....	664,159	809,818		
Gogebie & Montreal R.....	378,732	394,650		394,650
G. R. & Ind.....	8,762,150		927,738	
Mus., G. R. & Ind.....	534,261		33,128	
Traverse City.....	307,026		4,559	
G. R. & I. system.....	9,603,447	10,833,307	965,425	11,798,732
Grand Trunk Western.....	5,555,887	6,864,084	646,604	7,510,688
Chi. Det. & C. G. T. Junc.....	2,579,836	2,850,556	11,935	2,862,491
Cin. Sag. & Mackinaw.....	1,089,748	1,182,227	9,619	1,191,846
742 D., G. H. & M.....	6,195,171	7,038,425	53,343	7,111,768
Mich. Air Line Ry.....	1,188,089	1,730,829	7,684	1,738,513
St. Clair tunnel.....	1,574,625	1,630,340	1,888	1,622,228
Toledo, Sag. & Muskegon.....	1,083,104	1,312,959	5,850	1,318,809
Grand Trunk group.....	19,306,460	22,619,420	736,923	23,356,343
L. Sup. & Ishpeming.....	1,864,940	1,962,101	35,465	1,997,566
L. S. & M. S.....	3,603,922			
Detroit & Chicago.....	233,421			
Det. Hillsdale & S. W.....	719,567			
Det. Monroe & Toledo.....	2,245,928			
Ft. Wayne & Jackson.....	602,000			
Kal. & White Pigeon.....	1,519,881			
Nor. Cent. Michigan.....	837,089			
Sturgis, Goshen & St. Louis..	111,517			
Lake Shore system.....	9,876,234	{ 18,803,011 12,339,385	} Note 1 49,218 113,942	1,433,125 547,319
Manistee & Northeastern.....	1,183,623	1,383,907		
Marquette & Southeastern.....		433,377		
Michigan Central.....	17,623,749	19,776,748		
Battle Cr. & Sturgis.....	355,806	634,400		
Bay City & Battle Cr.....	246,468	303,364		
Buchanan & St. Jos. River.....	20,971	20,477		
Canada Southern Bridge.....	221,670	262,188		
Det. & Bay City.....	4,165,677	5,371,034		
Det. Delray & Dearborn.....	66,262	81,832		
Grand River Valley.....	1,509,154	2,200,401		
Jackson, Lansing & Saginaw..	6,034,496	8,041,680		
Saginaw Bay & N. W.....	402,388	400,138		
Kalamazoo & So. Haven.....	444,913	758,508		

Name of road.	1900. Physical.	1902. Physical.	1902. Cash, accounts, records, ma- terials, & sup- plies.	1902. Total physical, cash, supplies, etc.
Mich. Air Line R. R.	2,147,125	2,659,938		
Mich. Midland & Canada.	123,774	250,492		
Toledo, Can. So. & Det.	2,021,064	2,280,517		
Michigan Cent. system	33,463,517	43,151,815	2,959,196	46,111,011
Mineral range.	1,303,041			
Hancock & Calumet.	591,723			
Mineral Range system.	1,933,764	2,880,263	167,214	3,047,467
Minneapolis, St. Paul & Sault Ste. Marie.	4,016,306	4,537,362	459,901	5,017,353
Munising.	732,566	642,246	30,816	673,002
Flint & Pere Marquette.	11,009,129			
Det., G. R. & Western.	6,468,854			
Chicago & W. Michigan.	7,456,714			
Chicago & N. Michigan.	1,405,194			
G. R. Kalkaska & S. E.	381,107			
(Sub. total for comparison) ...	27,411,088			
Bay City Belt Line.	110,920			
Sag. Tuscola & Huron.	778,076			
(Sub. total for comparison) ...	28,300,064			
Pere Marquette system		34,798,973	2,331,403	37,130,376
Pontiac, Oxford & Nor.	929,320	1,064,836	61,253	1,126,089
Sault Ste. M. Bridge Co.	263,060	313,908	15,275	329,178
Wisconsin & Michigan.	358,244	302,975	132,382	435,357

NOTE 1.—No apportionment attempted.

743 This testimony was objected to as immaterial and irrelevant.

744 A. B. BURT, sworn on behalf of defendant.

Direct examination by Mr. WYKES:

I am auditor of the Michigan Central Railroad Co. and am conversant with its accounting affairs.

Small improvements, new track and things of that character go to operating expenses. Regardless of whether improvement costs more than old structure, it would be charged to repairs. Operating expenses contain repairs; we carry that to the case of a new bridge replacing an old one; would be unable to determine but that price for material and labor might be higher.

We carry that system through our accounts. From accountant's standpoint, the Canada southern system, so called, and the Michigan central, so called, have been kept separate. The T. C. S. & D. is part of the Canada Southern system.

To determine the operating expenses of the T. C. S. & D. a percentage for a period of ten years, when accounts were kept separate, is used.

We do not attempt to make a division of actual expenses of lines other than the main line. In report to commissioner of railroads we made a division of expenses by divisions to comply with the blank. This was upon a ten year basis. The period would in all probability be ten years prior to 1893.

This percentage was taken upon the entire system, and was arrived at by taking expenses for each branch, arriving at a total, and the ratio which each branch bore to the whole, fixed the percentage.

In 1901, \$210,000 was taken out of net surplus for the year's operation to pay for certain expenditures. This was an exception to our rule of charging every expense on account of maintenance of way, equipment and construction to operating expenses, except where paid for by bond issue.

745 In classification of operating expenses we are governed by the classification of the interstate commerce commission, which had been adopted by us in a general way, before the interstate commerce commission issued classification, and has since been in force. We have printed classification showing wherein we have varied from interstate commerce classification.

(Mr. Butterfield moves to strike out all testimony relative to distribution of accounts as immaterial under allegations of bill, and further testimony of that character objected to.)

In our accounts the Michigan Central system includes all lines this side of the Detroit river, except Michigan Midland & Canada and T. C. S. & D. The Canada Southern includes lines in Canada, the Michigan Midland & Canada, T. C. S. & D. and Canada Southern Bridge Company.

In a general way the assignment of earnings to branch lines would be by freight; if shipment made from Mackinaw City to Kalamazoo, the Jackson, Lansing & Saginaw would receive mileage proportion from Mackinaw City to Jackson, and the balance would be placed to credit of the main line. The rate on carload freight is divided absolutely upon car mileage basis.

I think in case of interstate branch, earnings are divided between the portions within and without the State upon a track mileage basis.

(Classification of operating expenses used by company produced, marked Exhibit No. 3. This classification varies but slightly from interstate commerce commission's classification.)

This classification in force since January 1, 1893, and we have used it without any deviation, at least my instruction is it should be so used.

I have made examination to acquire information in regard to division of earnings among the several lines. In freight
746 business, branch lines allowed their mileage proportion of through rate, and main line allowed its mileage proportion.

On shipment from Mackinaw City to Chicago, the Jackson, Lansing and Saginaw branch would get mileage proportion, and balance would be apportioned to main line. This rule is uniform all over the system upon freight business except that through business between Canada Southern system and Michigan Central is arbitrarily divided upon constructive mileage.

In passenger business, earnings from a passenger ticket between Mackinaw City and Chicago are divided on a mileage basis, allowing the main line its mileage proportion, providing that it would not exceed its legal proportion. If the main line's proportion would exceed two cents per mile, excess goes into division over which the business passed. On branch lines, the apportionment between a part within and part without the State, both in passenger and freight departments, is made on mileage basis.

Under contract with American Express Company we receive virtually a lump sum. This is divided among divisions by a percentage of earnings based upon experience of ten years. This revenue is divided between portions of the division within and without the State on a mileage basis. We endeavor to assign earnings from rentals to the division where rentals received. We have no rebates, but did have prior to 1900. They continued for some period before that time.

Our trains run from Kensington to Chicago over Illinois Central tracks where we have track rights. The Illinois Central is allowed half the rate per passenger. I think half of fifteen cents on business of Michigan Central, and half of nine cents per passenger from all passenger business from other companies over our tracks. This is charged to track rentals and terminals in operating expenses, and this is true of all payments of the same character. The
747 operating expenses of boats crossing Detroit river are paid from the general revenue of the company, and expenses go as a part of operating expenses of the company.

I agree to prepare and furnish a statement of taxes paid by the various subsidiary companies of the Michigan Central for five years ending with 1902, each year separately, giving taxes in Michigan, outside of Michigan, and also operating expenses for that time, first for entire line of each subsidiary company, and then for portion in Michigan. These figures reported include the figures for taxes for other than railroad purposes.

In case of a freight shipment from Mackinaw City to Chicago, the Jackson, Lansing & Saginaw would get its mileage proportion, the balance would be the main lines proportion of the amount apportioned from Jackson to Saginaw.

(No cross-examination.)

748 JAMES E. HOWARD, sworn as a witness for defendant.

Direct examination by Mr. WYKES :

Am the auditor of the Pere Marquette Railroad Co.

The earnings of the Pere Marquette are apportioned between the part within and without the State on a track mileage basis. During the period in question, between 1900 and 1902, the boats had pro rata for portion of earnings fixed by traffic department.

"Mr. STEVENS : I must object to the request of the State's attorney for the witness to spend time in the way of looking up information under the circumstances. The State's accountants are at liberty to examine the books, and to obtain this information for themselves, and it seems to me it is not fair to ask the witness nor any employees of this company that they do this work for the State. We would be glad to furnish them with the books from which the information may be obtained, and it seems to me that is all that ought to be expected. The work of the accounting department has enough in itself to keep all the employees busy doing their regular duties, and viewing the testimony as I do as absolutely immaterial and incompetent, I wish to record an objection to the making of such requests. If it were only a request for one or two particular things, it would be different, but it involves making up a set of figures on all the subjects that are thought to be material by the State's attorney and I submit it should be done by the State's accountants.

Mr. BLAIR : That will be satisfactory. I take it for granted the accountant will be treated with courtest and be allowed to make his investigation.

Mr. WYKES : There is further information we wanted about your books : the operating expenses and a division of them in the State and out of the State, and a division of those for railroad purposes, and the property which you used for other purposes ; we understand you will permit the books to be examined, which will indicate that?

Mr. STEVENS : We will give you any facilities we have got."

The WITNESS : No system of rebates is in force at present, except construction rebates, meaning where factory is built along the line, it is customary to give half rates on material going into construction.

We use Interstate Commerce Commission's classification.

Rebates paid would be charged against freight earnings, and taken out before gross earnings are declared

750 HENRY C. ADAMS, sworn as a witness for the defendant.

Direct examination by Mr. TOWNSEND :

I live at Ann Arbor, Michigan. I am professor of political economy and finance in the University of Michigan, and have held that position since 1887. From 1880 to 1887 I was professor of

political economy and finance at both Cornell and Michigan universities, and during two years of that time was a lecturer at Johns Hopkins university upon those subjects. I am statistician to the Interstate Commerce Commission and have held that position since the fall of 1887. In the census of 1890 I had charge (under the title of special expert agent) of the entire transportation work of that census, including railroads, street railways, and water transportation exclusive of foreign commerce and express. I was statistician for the postal service commission in 1899, the investigation involving the reports of mail carried from 1870 down to the date of investigation. As statistician of the Interstate Commerce Commission I have been from the organization of the convention of railroad commissioners, the chairman of its standing committee on uniform railway statistics. Through this convention certain of the steps toward uniform methods of accounting in this country have been accomplished. I think I may say that the classification of operating expenses made by these railway accounting officers of that association has been universally adopted.

I am a member and late vice-president of the American Statistical Association; also member and late president of the American Economic Association; member of the International Statistical Association and member of the International Association for Procuring Uniform Legislation.

My writings (excluding pamphlets and articles) on subjects relating to this inquiry, are: A History of Taxation in the United States from 1789 to 1816, which has been translated into German; Public Debts, translated into Japanese; the Science of Finance, also translated into Japanese; Statistical Reports of the Interstate Commerce Commission from 1888 to 1902; a Compendium of the Railways of the United States for 1902 in three parts; two volumes on transportation for the United States in the census report for 1900.

I have given special attention to the subject of the history of the evolution of taxation of railways in the United States.

Trend of Modern System of Railway Taxation.—The present system of railway taxation aims to realize ad valorem taxation for railroads. This system finds it necessary to provide special rules and machinery for assessing this class of property. Rhode Island is now the only State which continues the old method of taxing only visible and tangible railway property. In all other States railway properties are under an administration with respect to taxation, separate from the general property tax. The general practice is for the State to assess general railroad property which is not readily localized and for the municipalities to assess the local property. In Michigan, previous to 1901, railways were taxed on the basis of gross earnings, the railways being classified according to the earnings per
751 mile of line, and a different rate assigned to the different classes. A comparison of the amounts paid by railroads prior to the new law with the amounts paid by other properties showed that the rate of taxation upon other values was very much less than

the rate paid by other properties. There are many reasons in justification of the tendency in the legislation of American States to separate railway from other property for purposes of taxation; the commercial jurisdiction has extended beyond the jurisdiction of the States and it was necessary to modify the rules of taxation so as to conform to the new commercial conditions, otherwise large amounts of property would elude taxation.

Railway corporations have a value in excess of that discovered by the engineers' inventory of the physical property. The securities representing this value are easy of concealment.

The development of the modern system of taxation involves three steps:

1st. Taxation of all forms of property instead of mentioning a few specific forms of property. Pennsylvania presents the only exception to this general rule in the way of mentioning certain classes of property and exempting what is left.

2nd. The substitution of the corporation for the individual, in many instances, in matters of taxation. This I believe, is the fact in Michigan, so far as a Michigan corporation is concerned. That is the application of the principle of "taxation at the source."

3rd. Special methods of taxation of property non-local in character resulting from the fact that railroad property is not easily localized, but draws its earnings from large territories. The tax laws have therefore endeavored,—

(a.) Either to expend the proceeds of the tax for general purposes; or

(b.) To assign back the proceeds to the localities.

Intangible Value of Corporate Property.—Corporations, especially railroads, have a value in excess of that which the engineer gets by taking an inventory of the physical property, this is indicated by,—

(a.) The sale value of railroad properties which, in the case of a well organized property having a stable and sure income, is greater than the valuation of the physical elements arrived at by an engineer.

(b.) The amount at which the railroad is capitalized.

(c.) The cash value of the stocks and bonds in excess of the value of the physical elements.

(d.) (Under objection of irrelevant.) The fact that receiverships are frequently granted to prevent disintegration of property and the consequent destruction of intangible values.

(e.) A railroad has a value due to established organization and business.

(f.) Many corporations have a permanent income exceeding the amount necessary to pay a fair return on physical valuation.

The term "non-physical value" as applied to corporate value means the value in excess of that found by the engineers' inventory of the property. My use of this word pertains to the situation existing in Michigan, and in such a way that the non-physical value

plus the physical value will equal the aggregate value of the property. The elements entering into this non-physical value are:

1. Franchise value—the right to be a corporation where there is a general act of incorporation. This is not exclusive and does not cover a large amount of value. Where a franchise fee is required this kind of franchise value is measured by the cost. It sometimes includes the right to use public property and to employ public authority for corporate ends,—the right of eminent domain. If this is in any sense exclusive and its use advantageous, it becomes an element of value.

2. The right to use public property, which includes possession of traffic not exposed to competition. So far as non-physical value is due to this, it inheres in railroad property and not in other property exposed to the ordinary rules of competition.

3. The possession of traffic held by established connections, through the general traffic taken as a part of a general system, may be exposed to competition. A peculiarity emphasized in the last four or five years is the extent of organization among railroads,—*e. g.* the Michigan Central as a part of the Vanderbilt system, enjoys traffic it otherwise would not have. Railroads work to control competition by extending the ownership of stocks and bonds, by personal ownership, by directors of one corporation holding sufficient stock in another to secure representation on boards of directors of an otherwise competing line. The point is that a railroad which is a portion of such an organization can control in large measure the conditions of transportation and thus earn more money.

4. Economies made possible by increased density of traffic. The fundamental law of transportation, making railroads differ from other classes of business, is that increased density of traffic results in an increased rate of profit.

In Michigan railway traffic has continuously increased enabling railways to perform any unit of service at relatively less cost than otherwise. By density of traffic I mean the aggregate ton,—or passenger mileage,—spread over the particular line in question. One railway with a dense traffic might show a surplus over normal earnings, whereas another, with a less or a different traffic, would not show such surplus.

5. (Growing out of the 4th.) Railways are peculiarly benefitted by the growth of territory. In the absence of commercial or competitive forces, which tend in the great majority of businesses to diffuse the advantage of increase in population or wealth, railways are able to advantage themselves as the direct result of the growth of the community.

Non-physical elements attach to the physical property. We must consider both the physical and the non-physical, to obtain the value of a railway corporation.

(Under objection of irrelevant and incompetent.) There are three methods of valuing railway property:

1. The stock and bond method.

2. Direct capitalization of net income.

3. The inventory method, supplemented by capitalization of final net surplus.

The stock and bond method proceeds on the theory that the corporate property is listed in the balance sheet under the head of assets, which are represented by corporate liabilities. These liabilities are securities and subjects of investment, and the prices paid for them equal the property's aggregate value. The accepted rule is, to take the market value of the stocks and bonds as the measure of the corporate value of the property. Each issue must be taken by itself. The value of the issue is determined by the quotations. The market price varies, but I have been surprised in this investigation to notice the stability of general railway securities. To say we found difficulties in the stock and bond proposition would imply what is not correct.

The following general rules are laid down for the stock and bond plan of valuation :

(a.) On bonds we deduct the accrued interest to the time of purchase.

(b.) Where securities of one corporation are owned by another in the same system in its corporate capacity, we exclude such holding,—the stock of the main company being regarded as representing the securities of the companies held as investments.

(c.) We considered that where the quantity of sales was small and the indebtedness large, the conditions surrounding them might be peculiar and the rate quoted might not represent the judgment of the investor as to the value. We compared the number of securities sold to ascertain if the transactions were sufficient to warrant acceptance of the rate indicated as the legitimate value.

(d.) Where it was impossible to find quotations for a particular class of securities, we have been guided by quotations of securities in all respects similar. Where the sales were meagre we have studied the securities of roads connected with the road in question, *e. g.* finding Canada Southern quotations in larger volume than Michigan Central, we have, to test conclusions, gone into quotations of Canada Southern by studying the contract relations between those roads.

(e.) Where there were no adequate quotations we have availed ourselves of expert evidence on the part of those engaged in dealing in this class of securities. We have also used the Commercial and Financial Chronicle, which is a recognized authority on quotations.

(f.) We have studied quotations from 1890 to the present. From March, 1898, the basis of conclusions is the number of transactions and of bonds sold. The study was extended over so many years in order to eliminate unusual conditions; and where the conditions of the market rendered quotations unreliable, it did not influence our judgment. An illustration of an unusual condition would be a purchase to secure control which would increase prices; or a general desire on the part of the public to deal in those securities.

(g.) We obtained the weighted average so as to give a large sale relatively more influence, in determining the normal price, than a small sale. This weighted average was obtained by multiplying the number of bonds in a particular sale by the price, doing this for every sale of the year, and adding the values thus obtained, and adding up the number of bonds sold, and dividing one by the other. This seemed a more reliable indication of market judgment than a mere stated average.

In the stock and bond plan quotations covering the one year were sufficient if there were no unusual conditions.

Capitalization of Net Earnings.—In this plan all net earnings of the road are taken and capitalized at a rate determined. It is necessary to this plan that gross earnings and operating expenses be accurately determined. (Under objection of incompetent and irrelevant) There are reasons why it seems to me improper to place exclusive reliance on the net earnings plan, as,—

(a.) The theory assumes that income is the sole element in the value of the property. Other elements affect its value; at least the saleable value of property does not fluctuate mathematically with the income.

(b.) This means that in buying property of any kind a man considers what the property has done in the past and what it will do in the future, as well as in the year or month when the purchase was made.

(c.) Some Michigan railways fail to conform strictly to the classification of operating expenses and include improvements in operating expenses, which excludes that amount from the basis of capitalization.

The Michigan Central charged improvements to operating expenses as follows: In 1900, \$1,101,271; in 1901, \$1,181,618; in 1902, \$1,383,939. These figures are taken from the opinion of Commissioner Prouty of the Interstate Commerce Commission in an advance rate case, the testimony being such as the Michigan Central submitted in that case. (Objected to as incompetent.)

(d.) A practical difficulty in the "capitalization of net income" is that this plan cannot fix values for property having no net income. I submit a statement of the operating expenses and gross earnings of the Michigan Central system. The statement assumes that 70 % of the gross earnings is a normal operating expense. The percentage for the Michigan Central for the last few years has been much higher. I present also a statement of the net earnings from operation on the Michigan Central system as reported and compared with a curve designating net earnings from operation as they would be if net earnings were 30 % of gross earnings.

(The papers referred to were introduced and marked respectively "Exhibits 1 and 2, February 24, 1904," under objection thereto as immaterial and irrelevant.)

755 The information for making these charts was obtained from the reports to the State railroad commissioner; that to July 30, 1902 was taken from the reports to the Interstate Commerce Commission.

(c.) If different roads make improvements from current earnings in different ratios, the plan of valuing exclusively on net earnings would result in relative inequality. A normal operating expense, if that could be decided upon, would undoubtedly overcome this objection. The income has a decided influence on the valuation of property.

The rule of capitalization of net earnings (under objection as irrelevant) has been applied in some cases *e. g.*, the Union Traction Co. case, or the "Grosscup case" in Chicago. The valuation in that case was of a street railway, which is a different property from a steam railway and is operated under different conditions as to operating expenses. A normal operating expense of railways would be under 70 %,—of street railways 10 % to 14 % less.

The rate in the Grosscup case was high on account of the peculiar conditions in which the property existed, it being finally decided upon from the market, or estimate of business men, as to the value of those and similar securities. I have applied this plan to determine the values of the Pere Marquette and the Michigan Central, but do not attempt to normalize net earnings. To do this would result in an increase in net earnings of the Michigan Central system of 7 % or 8 % gross,—the Pere Marquette operating at about 70 % or 71 % and the Michigan Central at 77 % or 78 %. I think this rule would lead to accurate results if the gross and net earnings were accurately determined and a study of the property showed it absolutely stable and not subject to variation on account of general changes in the market. Where there is a wide variation in gross earnings from year to year, the rule would result in undue fluctuation.

Inventory Supplemented by Capitalization of Final Net Surplus.—In 1900 I was called upon by the Michigan State tax commission to determine whether railroads were paying a tax rate on their value equal to the rate on other property. With that problem in view I formulated this inventory plan as follows:

First. I began with the gross earnings from operation; from this I deducted the aggregate operating expenses; to the remainder (termed "income from operation") I added the income of corporate investments, the sum being termed "total income."

Second. I deducted from the total income as an annuity chargeable to capital, a certain per cent. on the appraised value of the physical property. This accepts a certain amount as necessary to support it which is regarded as capital.

Third. From this amount I deducted rents paid for leases of property operated,—if such property is not covered by the physical examination and made the basis of the above annuity. The re-

mainder, if any, represents the surplus, which, capitalized at a certain rate, gives the value of the non-physical property.

This plan provides for a return on the physical properties and for the payment of taxes, and the balance capitalized produces the non-physical value. This non-physical value is explained by the elements above described. The results do not depend on what elements the non-physical property consists of, and my figures will be the same if all those elements except one were eliminated.

756 The determination of the rate for capitalization rests upon the business properties as indicated in the purchase and sale of securities and such other evidences as I am able to get, which indicates the rate of income expected by investors in the class of property under consideration. The result comprehends all elements enumerated and many more. This statement of the manner of arriving at the rate justifies of course the use of different rates for different properties. In applying this rule to the properties of Michigan I have tried to classify them according to condition, connections, character of traffic, and all considerations going to determine the character of the security. I have examined market quotations of securities on the road under examination, and other roads in the same class, and as the result of that study have determined the rate. (Objection to witness giving results of study of other roads) The rate accepted is the net rate to the investor as income.

In the case of bonds it was necessary to determine the length of time they had to run, the interest rate and the market price. This being known, the net return is discovered by ordinary methods. It is the net return to the investor as determined in this way that I have accepted as the basis of capitalization. The rate taken for the Michigan Central for 1902 is $3\frac{1}{2}\%$ on physical and 5% to determine non-physical valuation.

I have taken the entire system and localized the *Michigan* portion of that value. (Objection of incompetent and irrelevant) The roads which I accepted as similar to the Michigan Central railroad, are the New York Central & Hudson River, the Chicago, Milwaukee & St. Paul, and part of the bonds of the Lake Shore & Michigan Southern, viz: the Detroit, Monroe & Toledo mortgage. Quotations of railways similar to the Michigan Central railroad were taken to find whether there was anything peculiar in the Michigan Central Railroad quotations. I used all the information at my command to determine the fair and reasonable rate in capitalizing. (Objection to testimony as incompetent, it appearing that results are based on examinations of other roads than the Michigan Central) Quotations of other roads were used merely to guide in determining what rate should be adopted for the capitalization of the property. I used everything in my judgment pertinent. I considered the following information:

Name of road.	Description of issue.	Amount of issue.	Amount outstanding.	Return to investor, per cent.				
				1898.	1899.	1900.	1901.	1902.
N. Y. Cent.....	4 3-12 per cent., bond due '97.	\$100,000,000	\$70,000,000	3.28	3.16	3.20	3.21	3.28
C. M. & St. P.....	4 per cent., general mortgage A, due 1899.	150,000,000	24,500,000	3.81	3.59	3.61	3.60	3.82
Lake Shore.....	Gold, 3½ per cent., due '97.	50,000,000	43,844,000	3.33	3.20	3.19	3.22	3.28
Mich. Cent.....	5 per cent. bonds, due 1931, secured on Det. & Bay City.	4,000,000	.....	3.92	3.54	3.60	3.41	3.42

(Mr. Pond moves to strike out the reference to other roads as incompetent.)

The Michigan Central railroad's 7% consols in 1902 were becoming due and reflected the money rather than the security value. I had good quotations for 1898 to 1902 for the Detroit & Bay City 5 %'s of 1931. They netted the investor (an average for five years)

3.58%. Quotations on the Air Line for 1900 and 1902 show 757 a net return of 3.58%. The refunded bonds of the Michigan

Central railroad 1902 (50 years) 3½%, netted the investor 3.32%, and fluctuated about that point and reached below par. Quotations indicate the estimate of the investor in those bonds as a 3.25 or 3.5% investment.

To my best knowledge the quotations used are the prices paid by *bona fide* investors, influenced by no consideration other than investment.

(Tables showing quotations of bonds mentioned were introduced and marked "Exhibits 3, 4, and 5, February 25, 1902," subject to objection by Mr. Pond that the facts disclosed by the tables are not competent evidence in this case.)

The tables are as follows:

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EXHIBIT 3.

New York Central & H. R. R. R. Gold 3½ % Bonds, Due 1997 (Coupon).

Issue.....					100,000,000	
Outstanding.....					70,857,000	
		1898.	1899.	1900.	1901.	1902.
Jan'y	{ Low..	110½	109	109	109	108
	{ High..	112½	109½	109½	109½	109
Feb'y	{ Low..	111½	108	109	109	108½
	{ High..	111½	108	110	109	109
March ...	{ Low..	111½	109	110½	108½	108½
	{ High..	112½	110½	110½	109	109
April.....	{ Low..	112	110½	110	108½	108½
	{ High..	112½	110½	110½	109½	109½
May	{ Low..	111½	110½	110		
	{ High..	112½	111	110½		
June.....	{ Low..	107	110½	110	108½	108½
	{ High..	107	111½	110	109	109
July	{ Low..	105½	108½	108½	106½	106½
	{ High..	105½	109½	108½	107	107

Aug.....	{ Low.. 106½	110½	109½	108	
	{ High. 107½	110½	110	108	
Sept.....	{ Low.. 107½	110½	109½	107½	108½
	{ High. 107½	111½	109½	108½	108½
Oct.....	{ Low.. 107½	110½	.....	108½	
	{ High. 107½	110½	.....	109½	106
Nov.....	{ Low.. 108	109½	.....	109½	106
	{ High. 108	109½	.....	109½	104
Dec.....	{ Low.. 109½	109½	110½	110	106½
	{ High. 110	110½	111	110	
Average...	{ Low.. 107 15/56	110 81/96	109.525	109 23/96	107 31/72
	{ High. 107½	111 62/96	110.15	109 63/96	108 5/36
Flat average for year.....	107 43/112	111 47/192	109.84	109 43/96	107 113/144
Net average for year.....	106.51	110.38	108.96	108.57	106.92
Interest yielded investor.....	3.28 %	3.16 %	3.20 %	3.21 %	3.26 %

"Flat" includes accrued interest.

"Net" is price after making deduction for accrued interest.

EXHIBIT 4.

759	Chicago, Milwaukee & St. Paul General Mortgage "A" 4 %, Due 1989.	
General mortgage covers.....	\$150,000,000	
Series A issued under same 4 % outstanding.....	24,000,000	
Series B issued under same 3½ % outstanding.....	10,000,000	

	1898.	1899.	1900.	1901.	1902.
Jan'y	{ Low.. 104½	108½	109	112½	110½
	{ High. 105½	112½	110½	114½	114½
Feb'y.....	{ Low.. 105½	111	109½	113½	113½
	{ High. 107	112½	111½	114½	114½
March....	{ Low.. 105	111	111½	113½	114½
	{ High. 106	111½	111½	114½	116½
April.....	{ Low.. 103½	111½	112½	113	116½
	{ High. 103½	114½	113	113½	
May.....	{ Low.. 102	113½	112½	112	
	{ High. 104	114½	113	112	
June.....	{ Low.. 104	114	110½	111½	117
	{ High. 106	114½	112½	112½	117
July.....	{ Low.. 104	111½	109½	110	114½
	{ High. 106	112½	111	110½	114½
Aug.....	{ Low.. 105½	112	110½	110½	
	{ High. 106½	113	110½	110½	113
Sept.....	{ Low.. 105	111½	110½	110½	113
	{ High. 105½	112	110½	110½	113½
Oct.....	{ Low.. 105	111	109½	110½	113½
	{ High. 106½	111½	111	111	113
Nov.....	{ Low.. 106½	110½	111	111½	113
	{ High. 106½	110½	112½	112	113½
Dec.....	{ Low.. 107½	110	114½	111½	113
	{ High. 109	111½	114½	112	113½
Average...	{ Low.. 104 25/32	111 9/32	110 43/48	111 55/96	113 29/40
	{ High. 106 7/48	112 11/16	111 79/96	112 7/32	114 11/20
Flat average for year.....	105 89/192	111 63/64	111 69/192	111 43/48	114 11/80
Net average for year.....	104.46	110.99	110.36	110.90	113.14
Yield.....	3.81 %	3.59 %	3.61 %	3.60 %	3.52 %

Lake Shore Gold 3½ % Bonds, 1907.

Issue.....	50,000,000
Outstanding.....	43,844,000 (in 1903).

	1898.	1899.	1900.	1901.	1902.
Jan'y.....	{ Low.. 104½ High.. 106½	{ 106 107½	{ 109½ 110½	{ 109½ 109½	{ 108½ 108½
Feb'y.	{ Low.. 106 High.. 106½	{ 107½ 108	{ 110 110½	{ 109½ 109½	{ 108 109½
March	{ Low.. 102½ High.. 105½	{ 108½ 110½	{ 109½ 110½	{	{ 108½ 108½
April	{ Low.. 102 High.. 102	{ 110 111½	{ 110½ 111	{ 110 110	{ 108½ 108½
May.....	{ Low.. 103½ High.. 105	{ 111½ 112½	{ 110 111½	{ 110½ 111½	{ 108½ 109½
June.	{ Low.. 104 High.. 104½	{ 110½ 111½	{ 109½ 109½	{ 108½ 108½	{
July	{ Low.. 104 High.. 104½	{ 110 110½	{ 109½ 109½	{ 108½ 108½	{ 107½ 107½
Aug.	{ Low.. 104½ High.. 106½	{ 109½ 110½	{ 110 110	{ 109 109	{
Sept.....	{ Low.. 105½ High.. 106½	{ 109½ 109½	{ 109½ 110	{ 109 110	{ 107½ 107½
Oct	{ Low.. 106 High.. 107½	{ 108½ 109½	{ 109½ 110½	{ 108½ 110½	{ 105½ 106½
Nov.....	{ Low.. 106½ High.. 107½	{ 109½ 111	{ 110 111	{	{ 104½ 106
Dec	{ Low.. 106 High.. 106½	{ 109 110½	{ 109 109½	{ 107½ 108½	{ 104 105½
Average...	{ Low.. 104 29/48 High.. 105 71/96	{ 109 17/96 110 11/48	{ 109 79/96 110 37/96	{ 108 79/80 109 11/20	{ 107 1/80 107 29/40
Flat average.....	105 11/64	109 45/64	110 5/48	109 43/160	107 59/160
Net average.....	104.30	108.83	109.25	108.39	106.50
Yield.....	3.33 %	3.20 %	3.19 %	3.22 %	3.28 %

761 Michigan Central P. R. 5 % Bonds, Due March 1, 1931, and Secured by Mortgage on Detroit & Bay City Railroad (\$4,000,000 Issue).

Table of Weighted Averages of Prices of Sales on New York Stock Exchange After Deducting Accrued Interest and Showing Net Yield to Investor at Such Prices.

Year.	Average net price.	Yield.
1898.....	119.96	3.92
1899.....	127.82	3.54
1900.....	126.03	3.60
1901.....	129.70	3.41
1902.....	129.04	3.42

Michigan Central 3½ % general (main line) mortgage. Gold bonds due 1952. Issued in 1902; \$10,000,000, issued by Michigan Central at 104½. Yield at 104½, 3.31½; at 105½, 3.27½; at 107, 3.22.

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(Witness resuming :) I have only taken these quotations as corroborative evidence that the market quotations for the Michigan Central railroad are fair.

For the Pere Marquette I allowed $4\frac{1}{2}\%$ on physical and 6% on non-physical property, based on quotations of Pere Marquette stock and similar roads.

The average return to the investor in Pere Marquette bonds from 1900 to 1902 are as follows :

Description of bond.	Amount outstanding.	Volume of sales.	Average return to investor, three years, 1900-1902, inc. %.
Flint & Pere Marquette, 5 per cent. bonds due 1939	\$2,850,000 00	\$307,000 00	4.5
Port Huron division, 5 per cent. bonds due 1937	3,500,000 00	750,000 00	4.4
Flint & Pere Marquette, 6 per cent. bonds due 1920	4,000,000 00	130,000 00	4.2

The Ann Arbor is in some respects to be classed with the Pere Marquette. The net return to the investors on its 4% bonds due in 1995, was : in 1900, 4.38% ; in 1901, 4.14% ; in 1902, 4.07%. Other investigations were made to corroborate the proposition that property of the class indicated would net the investor over 4%.

The reason for the difference in the rate applied to the Michigan Central and that applied to the Pere Marquette is in the character of the properties and the results of the operation as indicating their relative value. The two roads keep their accounts in different ways and a capitalization at the same rate would give the Michigan Central a relatively lower value than the Pere Marquette.

This brings out the practice of charging improvements into operating expenses, or paying for current improvements out of current earnings. I do not wish to express any opinion as to the propriety of this practice. What I have to say is confined to the necessity of recognizing it in placing a value upon different companies which shall be relatively fair and equitable. The income account taken from one of the forms provided by the Interstate Commerce Commission for annual reports is the income account used by both the Michigan Central and the Pere Marquette railroads, in making their reports to the Michigan State board of assessors, and is followed by the auditor of the Michigan Central in keeping his accounts. The former auditor of the Michigan Central was a member of the committee which drew up this classification.

(The classification referred to was introduced in evidence (under objection by Mr. Pond) and marked "Defendant's Exhibit 1, February 24, 1904," and is as follows :)

Income Account.

(For Roads Making Operating Reports.)

Gross earnings from operation—page 35.....

Less operating expenses—page 45

Income from operation.....

Deficit

Dividends on stocks owned—page 37.....

Interest on bonds owned—page 39.....

Miscellaneous income—less expenses—page 41

Income from other sources

Total income.....

Deficit

Deductions from income :

Interest on funded debt accrued—page 23

Interest on interest-bearing current liabilities accrued,
not otherwise provided for.....

Interest on real estate mortgages.....

Rents paid for lease of road—page 47, A.....

Taxes—page 79, A.....

Permanent improvements—page 29.....

Other deductions

Total deductions from income.....

Net income

Deficit

Dividends, — per cent., common stock—page 17.....

Dividends, — per cent., preferred stock—page 17.....

Other payments from net income

Total

Surplus from operations of year ending June 30, 1903..

Deficit from operations of year ending June 30, 1903..

Surplus on June 30, 1902, (from "general balance
sheet," 1902 report)Deficit on June 30, 1902, (from "general balance
sheet," 1902 report)

Additions for year.....

Deductions for year.....

Surplus on June 30, 1903, (for entry on "general bal-
ance sheet," page 51).....Deficit on June 30, 1903, (for entry on "general bal-
ance sheet," page 49).....

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This classification was designed to include in operating expenses current repairs and the cost of new property necessary to renew and replace old property. As long as the figures in the balance sheet representing property assets remain unchanged, it is essential that the road be so administered as to maintain the original value. (Under objection of irrelevant) Michigan railroads follow this classification.

Railroads differ in their interpretation of the word "maintenance." Some assume it means keeping the property up to the requirements of technical engineering development. Others that it means simply renewing the property when worn out, which accounts in part for the difference in ratio of operating expenses to gross earnings. In determining whether a road is complying with the classification of operating expenses, reliance must be placed very largely upon the ratio of operating expenses for all roads of the country. (Under objection by Mr. Pond as incompetent and irrelevant.)

I have here a compilation of a number of roads for the years 1890 to 1902 inclusive for the year ending June 30, also for the United States as a whole, also for group 3 and group 6. In the compilation of railway statistics the country is divided into territorial groups. Group 3 includes Ohio, Indiana, the Southern peninsula of Michigan, a small portion of Illinois, and a little cut off on the northeastern portion of Pennsylvania and running up into the territory of New York to Buffalo. This group is among the highest in the country. A corresponding figure for every road in the United States will be found in the annual report. The table referred to is as follows:

Table Showing the Ratio of Operating Expenses to Operating Earnings of Railways in the United States, Compiled from the Reports of the Statistician to the Interstate Commerce Commission, for the Year Ending June 30.

Railways.	1890. %	1891. %	1892. %	1893. %	1894. %	1895. %	1896. %	1897. %	1898. %	1899. %	1900. %	1901. %	1902. %
Entire United States.....	65.80	66.73	66.67	67.82	68.14	67.48	67.20	67.06	65.58	65.24	64.65	64.86	64.66
Group 3, United States.....	68.36	69.33	70.43	71.84	73.04	70.84	71.39	71.29	71.18	70.53	69.22	69.47	69.49
Group 6, United States.....	63.98	64.16	62.84	64.69	63.65	62.78	60.80	62.84	62.17	61.18	61.91	63.00	61.48
Michigan Central.....	70.20	72.40	72.00	74.76	72.36	70.03	72.21	72.26	72.99	72.47	76.12	76.85	76.93
Chicago & West Michigan and Pere Marquette.....	67.86	66.19	70.19	76.69	78.36	78.26	79.22	76.75	76.51	73.82	70.64	.....	.....
Lake Shore & Michigan Southern.....	64.90	65.27	66.17	68.40	67.01	64.18	67.19	63.06	64.23	64.21	61.59	63.77	68.33
Pennsylvania lines.....	64.66	63.43	66.09	68.07	69.99	64.31	62.74	65.49	64.50	65.47	68.63	66.71	67.63
"Big Four" line.....	67.42	70.17	71.41	74.78	74.68	74.23	72.35	72.29	73.79	69.55	67.43	69.09	70.89
Erie lines.....	67.10	68.10	69.37	70.45	77.81	74.21	72.15	72.11	74.89	71.25	74.42	69.40	67.11
Wabash.....	76.80	78.02	79.86	83.14	85.44	82.36	79.72	70.77	72.47	76.42	76.59	76.04	76.14
Ann Arbor.....	60.42	61.12	57.97	77.59	83.97	82.92	93.57	84.36	72.49	77.16	76.95	74.63	72.52
Baltimore & Ohio.....	79.42	82.73	84.15	83.31	77.36	86.24	83.30	88.18	79.64	93.17	70.62	70.25	64.72
Atchinson T. & S. F.....	72.45	79.22	71.16	59.89	67.41	73.65	64.42	64.74	66.18	60.82	54.79	55.17	54.56
Chicago & Alton.....	60.41	59.18	60.71	62.52	55.91	55.48	58.77	59.43	63.04	59.61	71.57	61.94	65.29
Chicago & Northwestern.....	62.16	62.77	61.65	65.08	62.90	61.72	61.57	60.46	63.35	62.37	60.81	60.51	61.95
Chicago, B. & O.....	63.97	61.36	63.23	65.74	58.54	59.22	59.06	57.85	62.10	61.54	61.68	63.05	62.84
Chicago, M. & St. P.....	61.99	63.83	61.75	63.32	60.61	58.63	57.17	37.34	58.94	59.52	64.83	62.86	63.25
Chicago, K. I. & P.....	66.17	62.87	65.53	69.18	67.67	67.50	63.61	63.61	58.83	58.84	60.69	64.32	62.28
Great Northern.....	52.71	48.91	52.94	46.63	46.76	42.66	42.58	53.09	47.89	50.82	53.93	59.55	50.99
Illinois Central.....	59.87	66.33	64.30	61.20	62.03	60.68	60.62	64.90	60.31	61.16	63.88	64.81	63.81

The Pere Marquette and Michigan Central differ in other respects, as shown by the following table of earnings and operating expenses :

Year.	Road.	Gross earnings per mile.	Operating expenses per mile.	Net earnings from operation per mile.
1900.....	Michigan Central.....	\$10,270 00	\$8,089 00	\$2,171 00
1901.....	" " ".....	11,196 00	8,895 00	2,301 00
1900.....	Pere Marquette.....	4,289 00	3,271 00	1,018 00
1901.....	" " ".....	4,683 00	3,636 00	1,047 00

765 Normally there would be a higher percentage of operating expenses in a road of low gross earnings per mile than in a road with relatively denser traffic.

The Michigan Central has paid dividends regularly for a series of years. In 1883 it paid 5% ; in 1884, 3% ; in 1887 to 1889, 4% ; in 1890, 5% ; in 1891, 5% ; in 1892 to 1894, 5½% ; since 1894, 4%. The amount charged to improvements and included in operating expenses for the last three years at least is considerably in excess of the amount of dividends paid. The Pere Marquette first paid on its preferred stock, February 11, 1901, a dividend of 4% and paid nothing on its common stock until the latter part of 1903. These facts make it proper to use a lower rate of capitalization for the Michigan Central railroad.

(Under objection and motion by Mr. Pond to strike out)

The Michigan Central railroad is among the best railroads in the United States. During the period of depression about 1894, when the dividends of other roads were decreased or deficits resulted from their payment, it maintained its dividends; and assuming 70% is a normal rate of operating expenses, during most of the six years it maintained considerable improvements out of current earnings. The present ability of this road to maintain traffic and prices which enables it to use over a million dollars a year in improvements is a bulwark against depletion of the value of the securities, which does not exist in the case of the Pere Marquette. Considerations of this sort, and market quotations led to the rate adopted by me.

The reason for using one rate on the physical value and another for the excess value is that the latter is exposed to other risks than the former. Assuming that the stock stands for the intangible value, the uncertainties of returns on this, compared with investments representing tangible value, makes a higher rate of interest. If there were no uncertainty in regard to payments on both physical and non-physical value, this consideration might not apply. There is no uncertainty for the past year, but in considering property value it is necessary to forecast the future.

The rule I used contemplates using the average final net surplus for a period of years, as a property's value does not fluctuate mathematically in proportion to earnings. In the case of the Michigan Central railroad computations were used for a period of five years ending December 31, 1902. I came to the conclusion that less than five years was the practice among business men. I used three years in the case of the Pere Marquette because the system had not existed for five years. In the case both of the Michigan Central and the Pere Marquette the surplus for 1902 exceeded the average used. (Under objection by Mr. Butterfield as incompetent and it not appearing that witness knows the value of railroad properties in general) The general trend of values of Michigan railroads, so far as they depend upon gross earnings, has been upwards for five years past.

The figures of gross income of Michigan railroads from 1898 to 1902, are as shown by the following table :

Year.	Entire Michigan income.	Gross income, 10,000 inhabitants.
1898	\$32,122,799 00	\$136,593 00
1899	38,558,895 00	161,597 00
1900	39,644,824 00	161,789 00
1901	42,926,858 00	174,755 00
1902	46,286,596 00	185,718 00

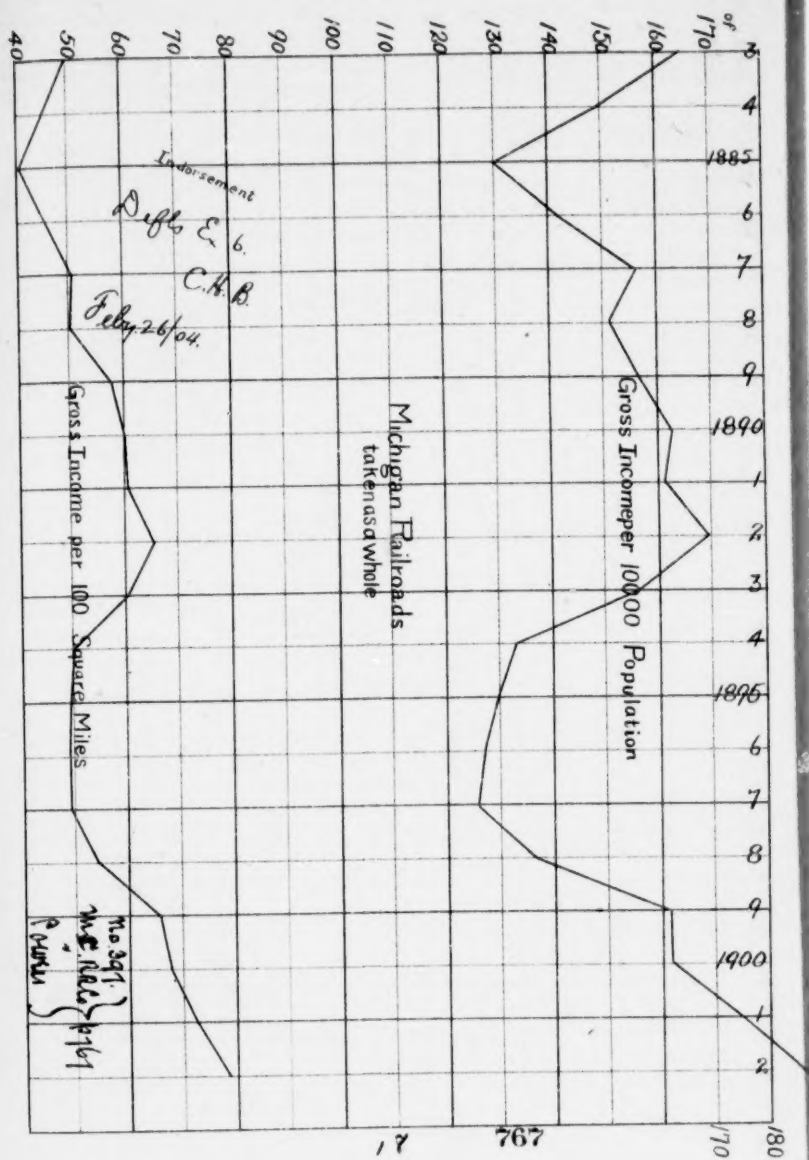
766 During these years there was a slight increase in mileage. The average net earnings for the Michigan Central during that five years was as follows :

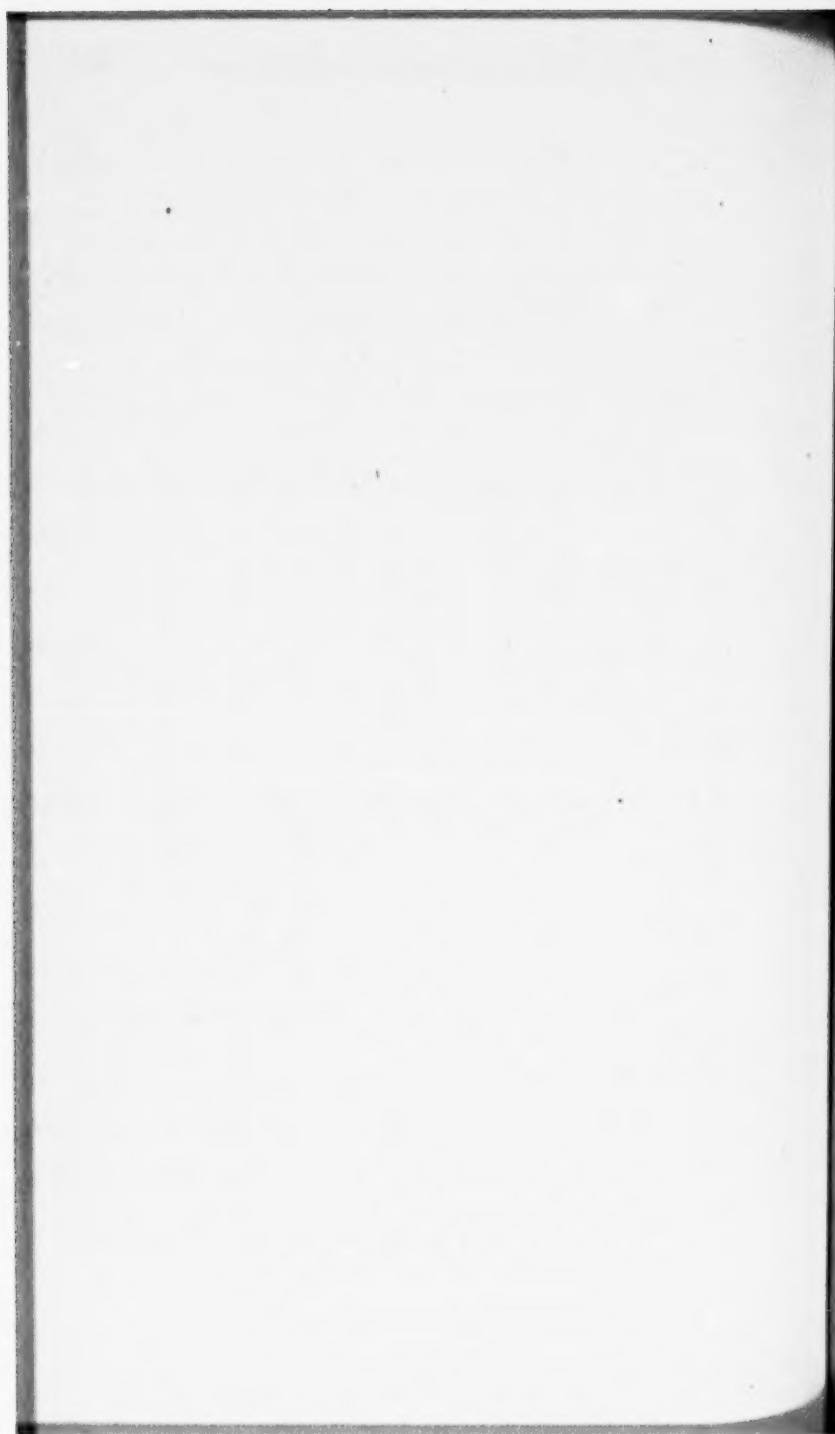
	Entire system.	Michigan proportion, track mileage basis.
Average five years, 1898 to 1902	\$3,620,377 00	\$2,503,345 00
1902	3,638,751 00	2,516,050 00

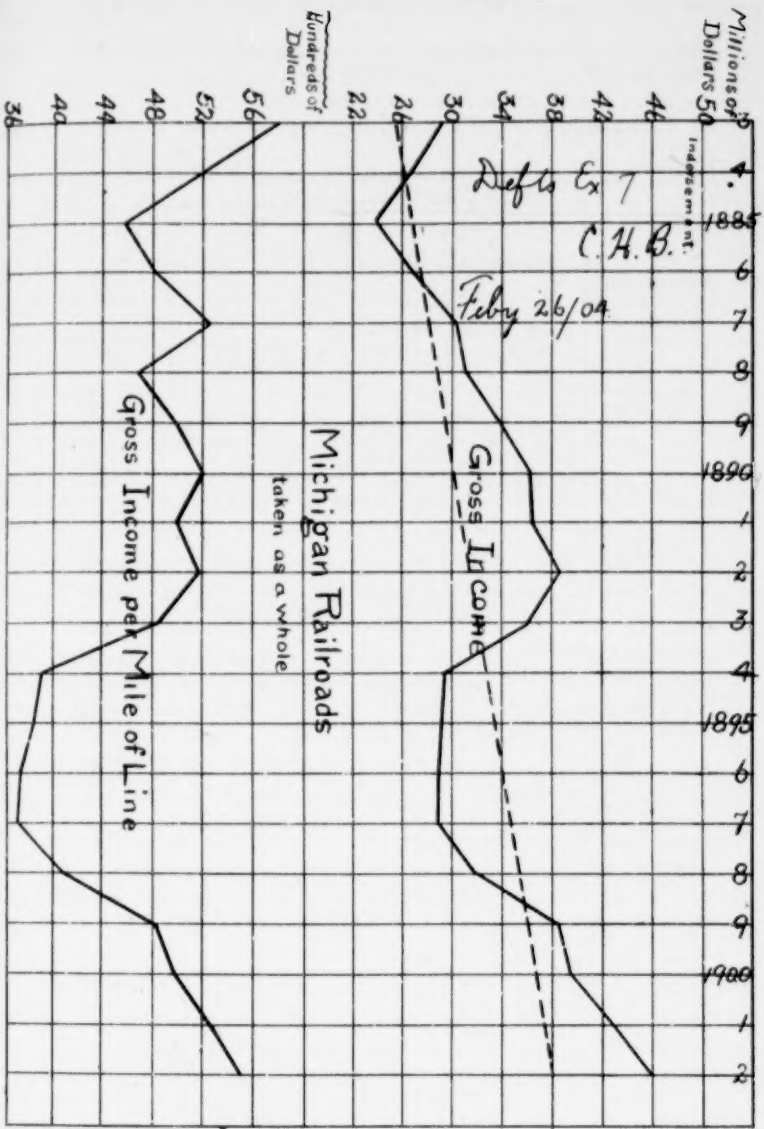
The witness produced a diagram showing the gross railroad earnings per hundred square miles in Michigan and per 10,000 population from 1883 to 1902; also another diagram showing the gross railroad income for Michigan as a whole and per mile as a whole, from 1883 to 1902.

These diagrams were offered in evidence and marked respectively "Exhibits 6 and 7, February 26, 1904."

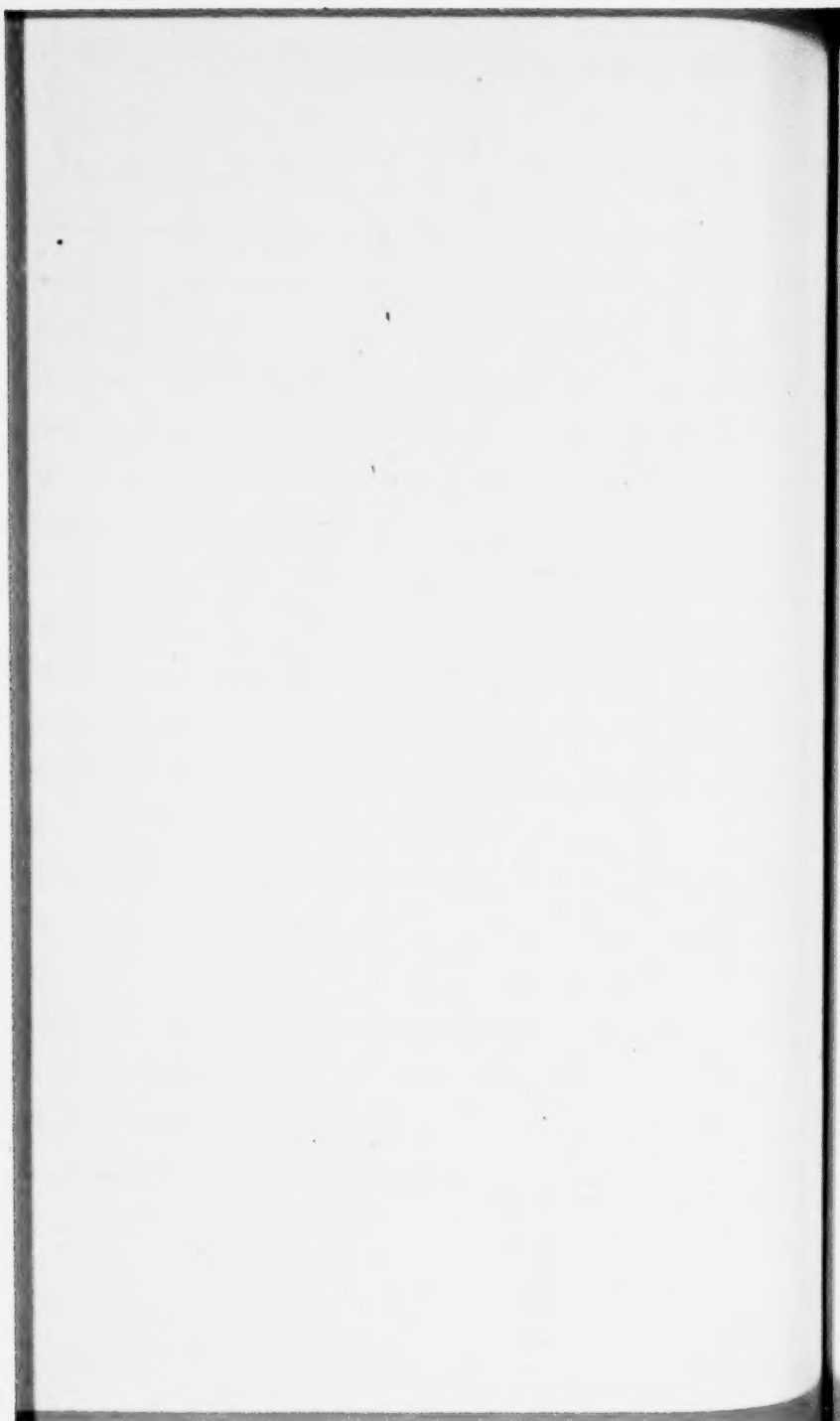
(Here follow diagrams marked pp. 767 & 768.)







No 291.2
ms A 25 p 105
P 2000



769 (Witness resuming:) There is no indication that prosperity in railroad earnings since 1902 has declined or is seriously threatened. (Objected to as incompetent and irrelevant, simply an opinion of the witness, not an expert opinion, and depending on facts not introduced.)

The earnings of the Michigan Central for the five year period from 1898 to 1902 are shown by the following table:

Year.	Gross earnings.		Net earnings, entire system.		Net earnings, Michigan mileage proportion.
	Entire system.	Michigan mileage proportion.	Before taxes paid.	After taxes paid.	
1898..	\$14,090,827 41	\$8,165,522 15	\$5,952,939 91	\$3,544,855 00	
1899..	15,552,760 70	9,216,055 51	3,975,337 03	3,548,644 00	
1900..	16,780,150 10	9,910,322 57	4,017,865 52	3,550,659 00	
1901..	18,564,936 85	10,890,069 62	4,327,105 79	3,818,972 00	
1902..	19,106,255 86	11,718,301 25	4,187,813 64	3,638,751 00	\$2,516,050 00
Average, 5 years, 1898 to 1902.....				\$3,620,377 00	*\$2,503,345 00

*The figure used in capitalization.

I did not use the Michigan figures of earnings and expenses reported to the railroad commissioner, in view of Mr. Burt's testimony that the assignment of expenses to individual lines was an estimate.

The earnings of the Pere Marquette for three years from 1900 to 1902 are as shown by the following table:

Year.	Entire system.	Michigan mileage proportion.
1900.....	\$8,305,585	\$7,641,382
1901.....	9,201,175	8,417,527
1902.....	9,995,375	9,190,046
Three year average.....	9,154,045	8,416,318

The physical value of the Michigan Central system as found by Mr. Cooley (including cash and supplies) is \$45,438,599. I applied my method for determining intangible values to this sum. (Under objection of incompetent and irrelevant) I find the non-physical value of the Michigan Central railroad to be \$18,259,880, and the total value (including cash on hand, supplies, etc.) to be \$63,684,479, on the second Monday of April, 1902.

Prof. Cooley's valuation of the Pere Marquette (including stores and supplies) is \$36,497,787. The non-physical value as found by

me on the second Monday of April, 1902, is \$9,988,383, and the total value \$46,496,170.

A capitalization of the Michigan Central net earnings at 3.75% gives \$67,905,940. A capitalization of the Pere Marquette at 5% gives \$49,905,940. (Underobjection as in competent) The conditions of the Michigan Central permit the application of the net earnings rule if that rule is applicable anywhere. There has been no violent fluctuation in its gross earnings. There is a difficulty from the fact that operating expenses are abnormally high on account of the practice of charging improvements to operating expense.

This would reduce the valuation and is taken into consideration in justification of the rate of capitalization.

The witness produced summaries of the results of the computations referred to for the Michigan Central and the Pere Marquette railroads, and the same were introduced and marked "Defendant's Exhibit 8, February 26, 1904."

The computations and exhibit referred to are as follows :

770 Value of Michigan Portion of Michigan Central System.

"Inventory Plan Supplemented by Capitalization of Surplus Earnings."

Average annual net earnings (after deducting taxes paid) entire Michigan Central system—1898 to 1902, inclusive—5 years.....	\$3,620,377 00
Michigan portion of above on track mileage basis...	\$2,503,345 00
Annuity on physical elements at $3\frac{1}{4}$ per cent. of value (\$45,438,599).....	1,590,351 00
Remainder of net earnings to be capitalized...	<u>\$912,994 00</u>
Value of non-physical elements shown by capitalization of above remainder at 5 per cent.....	\$18,259,880 00
Value of physical elements.....	<u>45,438,599 00</u>
Total value of Michigan portions of Michigan Central system—property used for railroad purposes.....	<u><u>\$63,698,479 00</u></u>

¹ Should be \$17,789,200.00, Record 3603.

² See amended figures, Record 3603.

³ See Thompson, Record 3328 32.

"Inventory Plan Supplemented by Capitalization of Surplus Earnings."

Average annual net earnings (after deducting taxes paid) entire Pere Marquette system—1900 to 1902, inclusive—3 years	\$2,286,507 00
Michigan portion of above, on track mileage basis...	\$2,242,303 00
Annuity on physical elements at 4½ per cent. of value (\$36,497,787).....	1,642,400 00
Remainder of net earnings to be capitalized...	\$599,903 00
Value of non-physical elements shown by capitalization of above remainder at 6 per cent.....	\$9,998,383 00
Value of physical elements.....	36,497,787 00
Total value of Michigan portion of Pere Marquette system—property used for railroad purposes.....	\$46,496,170 00

771 Cross-examination by Mr. POND:

The trackage rights in 14 miles, from Kensington to Chicago, were excluded on the ground that trackage rights were taxed in another State.

The stock and bond theory must be used with great care, and there are reasons why exclusive reliance should not be placed upon the net earnings system.

Two kinds of value inhere in property—physical and non-physical. I prefer to say that there is a physical element of value (instead of "property") and also a value in excess of the physical elements as determined by the engineer's inventory. The non-physical attaches to the physical.

I don't know of any use of the inventory method prior to 1902 in this exact form, except the appraisal of 1900. The theory is I think applicable to other kinds of business than railroad. I am not prepared to say there is any necessity for it. The assessor may get this element of value in another way. I have not thought we included an element, not included in getting the value of property used in other business. Wherever there is good will—a value due to organization—to that extent, there is a value in other business similar to that we are aiming to get by this method, in railways.

The non-physical element, with a great many other things, is in the nature of good-will. A manufacturing company has good will. This theory is applicable for getting at it for taxation purposes, if it is evident it cannot be reached in the ordinary method of assessment. By the ordinary method, good-will is reflected in many instances and made the basis of purchase and sale.

In railroad property it is necessary to follow this method to get at cash value, and assessors to get at the true value of commercial property, ought to take into consideration, its value over and above the physical. That might be done by this system, if reports could be obtained. I doubt if it would be as practicable as for railways. They haven't the established system of accounts or permanency of income independent of personal management that railways have. There is nothing in theory to make it impossible of application to manufacturing business.

A railway possesses a monopolistic character, that is, the commercial considerations under which it is operated, its relation to located business, and many other things make it a peculiar property,—peculiar in this, that commercial forces fail to diffuse or dissipate in it the more or less temporary—non-physical—values which from time to time appear in manufacturing and commercial concerns. During recent years, as a result of consolidations of otherwise competing industries, the same position a railroad assumes by nature, has been attained by few commercial industries. A peculiar non-physical value is inherent in railroad property and organization, different from the good-will of a commercial enterprise.

I have not used word "good-will," because it has no definite industrial or economic meaning. Organization of business of a railroad corporation does pass to purchaser,—it can pass between natural persons. If organization is due entirely to the owner, the value would be dissipated with his death, which differentiates it from the similar advantage of a corporation, existing in perpetuity.

Frequently upon change of ownership of stock, the managers and organization change, but seldom are all employes changed—the essential features of the railroad as a commercial concern are likely to continue.

This theory of valuation is applicable to trolley roads which have franchise values similar to steam roads, but not to such important degree. The use of highways is one element I had thought it different from ownership of right-of-way.

So far as the industrial character of the two situations is concerned, I think there is considerable difference. There is doubtless non-physical value in street railways; I do not wish to create the impression that an analysis of non-physical elements in the two cases would be identical. In my direct testimony I referred to the necessity of providing special means for valuing railway properties, since it extended over many miles, while manufacturing property is localized.

In this respect the tendency of trolley roads is becoming similar to that of steam roads.

Whether application of the system to steam and not trolley roads would result in higher basis for steam roads, depends on whether the assessors get the value of trolley roads by the other method.

I put this method in this particular form, in a letter to tax commission in October 1900. The taking into consideration of non-

physical property is very old. In that letter I named the franchise as element of non-physical value. I have not changed my mind.

There is competition in some kinds of traffic. In local traffic it is not great. There is some local traffic in which there is no competition. Referring to traffic between local stations as local traffic, if there is competition at competitive points, the rate at non-competitive points goes down to correspond. Traffic from local stations reaches substantially same market as from competitive points.

I supposed the question referred to passenger traffic,—in freight traffic there is immense difference between competitive and local rates. Though not so marked in this State as in other territory, the rates on passenger traffic are more or less uniform, under regulation, modified by influence of short mileage, where two points are connected by two or more railroads.

When I spoke of the benefit of economy possible by density of traffic I had not in mind economies due to superior management. The extent to which management would avail itself of the possibility of economies on account of increased density of traffic, might depend on the character of the management, but any management will, or can, increase economies and, from the nature of transportation business, must increase them as density of traffic increases.

This is one element of non-physical value. Increased density grows from increased population, wealth, industries which contribute to increased traffic; and increased traffic makes possible business at relatively less expense per unit of transportation.

The organization and vitality of industries served is a source of securing a higher net return, and increases value of property. A railroad which runs through territory of energetic people is more valuable than one running through territory sparsely settled, and industrially inferior.

Organization and vitality of a particular business, does not depend altogether on executive ability. As between individuals, organization and vitality of their business may depend on executive ability.

In a railroad, success is not, in the same degree, dependent on management. The brains of a man with executive ability, are an asset of a railroad that is paid for.

The organization of a business served is an asset to it. It is an element going to make the business succeed. The railroad company avails itself, as an asset, of the brains of a man managing a business, a railroad company serves, and that man avails himself as an asset of the railway. In business affairs, all depend for success upon the ability of people dealt with.

Northern railroads are relatively more valuable than southern, largely on account of the nature of employees and the people served. The organization of business served, in which the railroad is not interested, is a condition determining the success or failure of the railroad, and its selling price. Railroad business varies with the organization and vitality of concerns served. If Michigan schools

were disorganized for a generation, the railroads would not be worth much. This element makes the property valuable, and determines purchase and sale value.

The value pertaining to a railroad on account of a prosperous people would not again be taxed to the people. They would
775 be taxed upon their own prosperity and property.

There is no inequality in assessing railroads, on account of added value through vitality and organization of industries served, because in assessing property of the business served, the value added by the railroad is taken into consideration. The law provides for assessing such a value against the possessors, requiring the property of both to be taxed at cash value.

In ordinary industries, subject to commercial rules, the law of supply and demand settles their value and on account of frequency of sales, the assessor can easily determine market value. In railroads there is no sale of the property entire. The existence of a railroad's non-physical value is proven by stable current income, exceeding the amount necessary to pay a fair return on a fair valuation.

In ordinary property, (not trusts or industrials) the industries can not enjoy, for an extended length of time an income over and above a fair return on the investment, and for the personal service of the manager. Abnormal profit in such case is not perpetual income, but temporary in character, and can not be made the basis of property purchased. Railway industry is of a sort that can have a perpetual income, in excess of a normal return on a normal investment value of property. In one case commercial forces dissipate the excess over normal return; in the other, they can not get at to dissipate it, and there is a fundamental distinction between railroad and other property, which justifies the attempt to get non-physical as well as physical values.

A system of taxation is I think unequal, if the same thing is not found in other property, as far as possible. I have been trying to explain, that (except—possibly—industrials) there is not the necessity for arriving at the non-physical in ordinary commercial manufacturing enterprises.

I should apply this method to a railroad as soon as its accounts showed surplus earnings.

776 This method does not amount to an income tax, but is a means of administering an ad valorem tax. It depends in part on net earnings, but its application requires average net earnings over a term of years, differentiating it from an income tax. The tax is not based on income, but upon value, which is, in part, discovered by an income. Discovering value, by simple capitalization for one year, would operate as an income tax.

An income tax takes the income, an ad valorem tax takes value, as the basis of assessment. I have used the income in part to determine value—it is still an ad valorem tax and the effect is not the

same as if put on income. It provides for taxation of property having no net income.

For Michigan Central, I capitalized \$912,944. This is not in the nature of physical property (unless money is physical) but a value that adhered to the physical.

The words "physical property" used in this method is what Mr. Cooley reported and what the engineer's inventory would indicate. I do not think any part of the \$912,944 is invested in property Mr. Cooley valued. This represents the income to road in excess of the allowance on physical elements. I don't know whether or how it is invested.

There is no implication in theory that the railroad company is not entitled to earn over a certain amount on the property's value. It is simply a method of getting at value. The theory involves the fact that the income a property bears is an element of its value. I allowed the company 3.5% on the value of its physical property.

I don't say this is all the company ought to be allowed on its physical property, as income. That, in judgment of the market, is what investors in stocks and bonds of the Michigan Central are content with, and therefore is the value the assessors have a right to place on the property. The bonds ally themselves to physical valuation, and the stocks to non-physical. In industrials preferred stock to the physical, common to the non-physical.

777 I made an investigation to find the net earnings of investments of the class of the Michigan Central, and assumed the State would be within reason, if it used the common rate for that class of investments. The question is, what is a proper rate to be allowed; the answer is given by the general market (Michigan Central and other securities). The result depends on my judgment resting on data presented.

It is not my opinion that what investors in Michigan Central stocks and bonds are willing to receive, is the measure of the value of the property for taxation purposes. What investors in the stock and bonds are willing to accept, together with similar evidence (market quotations on other property, etc.) enables us to determine what investments of this character are worth, considered from the point of view of income received.

Market quotations of securities of different companies, having substantially the same physical property, or costing the same to reproduce, might differ. Properties classify differently as commercial properties. I might, with two roads having equal physical property and unequal income, reach different results.

If the same rate were accepted for capitalization and the surplus net earnings were the same, the same result would be reached. I don't know whether investors in these securities, bought and sold on the New York stock exchange, pay the taxes.

If the investor pays the taxes he would want a little more than 3.5%. 16 out of 18 millions of the Michigan Central stock is held by one interest in New York, and about a million of the rest by

trustees, etc. The dividend has been 4% but the prices of stock show it necessary to invest more than \$100, to get 4%.

In estimating income the investor is willing to receive, I have for bonds, taken eight months prior to April 14th, and 4 months subsequent; the judgment relied on rests on an investigation back to 1898 and 1900.

778 A capitalization of net income, without regard to physical values is not applicable to all properties.

As some possessing value have no net income. Before it is possible to rely on capitalization, it is necessary to have sufficient net income to cover a fair return on physical valuation. Before one can judge whether or not the net income rule is applicable, it is desirable to have some idea of the value of the physical property.

I should have reasonable data for determining the value of physical property. For safe application there should be an inventory. Upon the valuation of the Michigan Central by direct capitalization of net earnings, I placed no great reliance. I did not, in its application, include physical values reported by Mr. Cooley, but satisfied myself (by reference to his figures,) that there was sufficient net earnings to support the stocks and bonds, or a reasonable return on physical property.

Where net earnings are not sufficient to support the physical property, capitalization of net earnings is applicable; but the extent of the deficiency would require further investigation, to determine to what cause it is due. The extent to which this plan is applicable depends on the character of the property to which it is applied.

I should have definite information of the value of the physical property.

In capitalization and net earnings at a single rate for a single year, I don't think there is any difference from income tax, except that in one the tax is levied on valuation discovered from earnings and in the other, it is levied on earnings.

Adams' theory is applicable to property in manufacturing business.

I don't know of its being applied in such a case. If not applied, a property value would be omitted, if, on application of the theory, any such valuation as is found in railroads were discovered. If the method not applied, excess of earnings over valuation of physical property would not be discovered and the question would

779 remain for the assessor to decide whether there would be a resultant value to the manufacturing corporation. Different conditions under which railroads and manufacturing institutions operate, might produce different results. Excess earnings of a manufacturing institution would be more or less temporary and would not result in as high a valuation as if permanent.

From the general fact that manufacturing institutions are exposed to competitive influences, which dissipate the excess of income, so that in future it cannot be retained as a permanent income, as in railroads, the assessor and the law are justified in putting railroads

in a different class from manufacturing institutions. If the advantage resulting from surplus income in manufactories was permanent, they should be treated the same as railroads. I can only tell whether permanent by a study of the situation, history and conditions.

Some manufacturing establishments have existed a long time, and have been exceedingly profitable. Competitive forces as a rule, have forced prices to a point where dividends are normal.

It had not occurred to me that in these corporations this non-physical element has escaped taxation, because the properties are sufficiently small and numerous that instances of sale and purchase can be found, sufficient to establish a market valuation which assessor follows. Market valuation takes into consideration all elements of value. The assessor I suppose in getting at the value of a manufacturing plant, values the premises primarily, but if the situation is an element of unusual profit, the value of premises will be a capitalization of that particular advantage.

Land is valued according to the value of adjoining properties.

In the usual method of valuation the non-physical element is not taken into consideration but in the great majority of businesses, there is no non-physical value of that kind existing in railways. In analyzing the elements of non-physical value I read from my letter of October 19th to tax commission, 4 points the 5th I modified.

This as stated in letter was:

780 " It includes a value on account of the organization and vitality of the industries served by the corporation, as well as of the organization and vitality of the industry which renders this service; this value consequently is in part in the nature of an unearned increment to the corporation.

781 In the sense that each industry is dependent on every other, all business includes the value there described in the sense that all industries get same ratio of profit on fare investment, they don't.

The elements of organization and vitality are productive to any industry. In capitalization of rent, these elements make their appearance in the valuation of property. Suppose lots are valued by starting with sales in the vicinity; the assessor exercises his judgment as to whether the property adjacent is more or less valuable.

It is not necessary for him to analyze whether productive of rent—the market analyzes that for him.

(By Mr. BUTTERFIELD:)

The Michigan Central R. R. property in Michigan is entitled to receive, in valuing property, after payment of taxes 3.5 % on physical, and 5 % on non-physical valuation.

In my opinion investments of the character of the Michigan Central R. R. should return to the investor 3.5 % on physical, and 5 % on non-physical, after payment of taxes.

One reason for the difference between the Pere Marquette R. R.

and the Michigan Central R. R. is, that the short time the Pere Marquette has existed constitutes a risk, not existing in Michigan Central R. R.

I would not say that the element of risk would disappear, if the railroad prospered continuously for 5 years. It depends entirely on the character of prosperity and contributive conditions.

If the Pere Marquette property had leaped at once into permanent position and to running without friction, and secured the same discipline and in other respects commercially had come to the situation of the Michigan Central R. R., I see no reason for applying a different rate.

The reasons for the difference in rates of capitalization relate in part to questions that must be examined by an expert railroad manager.

Everything going to make up the degree of prosperity enjoyed by a corporation should be taken into consideration.

I think it necessary to supplement knowledge acquired from public reports with other information. I don't think knowledge of the skill with which the railroad corporation is managed is so essential as the commercial conditions under which the road is operated.

The extent of discipline maintained in organization, is reflected in the report to stockholders and public officials, in the net earnings reported, and the degree of economy with which the company operated. I am not, from reports to public officials, able to assign a definite quota of the prosperity of the road to discipline, more than to other elements. I am, as between various railroads, able to measure the extent to which that and other elements have resulted in declaration of net earnings. I could get something of a judgment from reports, but a much better judgment is obtainable from other sources of information, *e. g.* the information from a man buying and selling the securities. It must be assumed that a bank taking or advising a purchase of securities of a road, has taken into consideration these elements so far as they can be determined.

Banking houses maintain statistical and investigating departments and recommend securities to customers, on the basis of this investigation. Other institutions avail themselves of auditing companies, and expert operators, who investigate property. If in examination of the books the expert discovers divergencies from normal, he would make that fact known to his employer, *e. g.* where too much coal is used by engineers.

I think the amount of coal used comes under head of discipline. Discipline, in matter of punishment for violation of rules of operation is reflected in reports, rendering it possible to judge therefrom whether high or low degree is maintained, though not public documents.

I could, from the books of the company, determine how a matter of discipline should affect rate of capitalization. I did not care to rest my judgment on investigation of public reports, so corroborated it by an appeal to market quotations, which are made up by the

people who have access to the information I am excluded from. In relying on quotations, I rely on the judgment of those who have access to information upon which sound judgment must rest.

In reaching the rate of capitalization, I rely on the conduct of persons, who, I understand and believe, have made investigation.

The proper rate for capitalization does not rest on quotations of a single property, but on quotations of many; the question is, what is a fair return for investments of the quantity and character under consideration.

Statements made by officers of the company pursuant to the agreement made at this hearing, influenced my judgment.

Q. If the Michigan Central R. R. were wiped out of existence and in 1903 it was reproduced at Mr. Cooley's cost, *i. e.* \$52,000,000 and money secured by selling the bonds, \$32,000,000 and stock \$20,000,000 and the road ready for operation on Jan. 1, 1904, do you think money could have been raised for the enterprise on a representation to the investor in stock that he would receive a dividend of the same rate as the interest provided for in the bond?

A. It is a more violent assumption than even a professor would care to work on.

I don't think a railroad would be able to sell stock and get money, unless it could assure the investor in stock a dividend in excess of the rate of interest provided for in its bonds. No representation of a promotor is equal to 30 or 40 years of an accomplished fact. Assuming that the stocks and bonds represent the actual cost of reproduction, the investor in bonds would be satisfied with less return than the investor in stock. There is an element of risk in stocks which does not exist in bonds, and an expectation of higher gain.

On the basis of the hypothetical question, that the stocks and bonds represented physical property, an allowance in rates used for annuity and capitalization, should be made for the fact that a larger return is due those investing in stock than those investing in bonds. It is difficult to assume that the physical value of a property that is in such commercial condition as to give final surplus, is as great as the sum of its stocks and bonds,—that is a very violent assumption. The probability is there would be no final surplus and no double rate.

If there should be a final surplus the first year, in determining the value for the second year by application of this rule, it would be necessary to have a double rate, and to allow to a portion of the physical property produced by sale of bonds, a certain rate, and to this portion produced by sale of stock a higher annuity—my mind hesitates in coming to a conclusion upon the assumption of a single year. If I took only the first year, I would be inclined to make an unusual allowance for depreciation on account of the fact that operating expenses would be unusually low, and surplus would not be such that the road would maintain. It is conceivable that an increase of business, as an enterprise grew older might make up for

increased operating expenses, and that there might be a maintenance of a uniform net surplus from operation for several years. This whole supposition presents itself in the copper range.

In the case stated, the probability is there would be no net surplus. It might be worth less than the \$52,000,000 cost. All along, I must insist, this assumption is contrary to all rational assumption, I cannot conceive it.

785 I cannot conceive that the question of stable earnings and sure returns can be applied to an industry, the moment it comes into existence. You must have a history before it can apply. The theory so far as non-physical value is concerned is not applicable the first year. Assuming the proposition laid down conceivable, \$52,000,000 would be the value. (Upon basis of this hypothetical question, counsel indicates variation in value and tax as follows :)

Previous year's net surplus.		Tax previous year.	Deduct return physical value at 4½%.	Net corporate surplus to capitalize.	Physical valuation on which 4½% allowed.	Non-phys- ical from capitaliza- tion net corporate surplus at 6%.	Total value.	Tax present year.
Year.	Including taxes.							
1904 a.....	.....	.....	.....	.....	.....	.....	a \$52,000,000	\$884,000
1905.....	\$3,824,000	\$2,940,000	\$2,340,000	\$600,000	\$52,000,000	\$10,000,000	62,000,000	1,054,000
1906.....	3,824,000	2,770,000	2,340,000	430,000	52,000,000	7,160,000	59,160,000	1,005,720
1907.....	3,824,000	2,818,000	2,340,000	487,000	52,000,000	7,960,000	59,960,000	1,019,320
1908.....	3,824,000	2,804,680	2,340,000	464,680	52,000,000	7,740,000	59,740,000	1,015,580
1909.....	3,824,000	2,808,420	b 1,820,000	c 988,420	b 52,000,000	c 19,760,000	71,760,000	1,219,920
1910.....	3,824,000	2,604,080	b 1,820,000	c 784,080	b 52,000,000	c 15,600,000	67,600,000	.....

(3489-3504)

a The first year of existence cost of construction taken as value.

b Rate here changed to 3½%.

c Rate here changed to 5%.

Witness testified, I take the position that your original assumption is a violent one, and you are describing a method entirely different from mine. In order to obviate these violent fluctuations, we take a period of years and average earnings.

Taking the actual ad valorem tax for the previous year is not my method. I have used in all cases average expense and income, the object being to avoid fluctuations otherwise resulting. I don't think a taxing system, resting on reports of a single year, can give the same results as one resting on results for a series of years.

If the computation were carried out indefinitely, the tax would be practically the same year after year.

It is impossible that corporate surplus should remain the same with an increase in gross earnings; that means the railroad does not take advantage of economies rendered possible by
786 denser traffic.

"Q. If that would be true then I ask you to lay those elements aside of conceiving that there was any increase whatever in gross earnings but with the same economies practiced as the first year that business has gone on and shown this corporate surplus year after year?

A. That is contrary to the fixed rule of railway transportation, that is inconceivable. If you are going to give a case which is at all in harmony with the situation as it exists."

If, in the case stated, from the year 1908, the condition of the market, road and earnings should continue the same for 40 years and the road has no more prospect of success at the end than at the beginning (a violent supposition), I cannot see any necessity of changing the rate of interest.

There may be 20 conditions, and I don't wish to put a change in percentage on the basis of simply final net surplus. I cannot conceive of the surplus remaining the same, unless everything else remains the same,—you can't do it, and I refuse as a witness to take an assumption that is violent and contrary to reason.

Anybody that knows anything about transportation would not assume those figures. The assumption is so violent that it would not be for a moment warranted by railroad management.

Many considerations influence a change of rate of capitalization. There might be a reduction in rate, without an increase in net surplus, due to increased confidence of the public in the security.

"Q. * * * Now if I have made no error in the computation my conclusion upon this hypothetical case, I understand you to be correct representation of the result of your application to it?

A. With the exception that I used averages always and that is all, otherwise it is correct.

787 Q. But in the case that I have assumed where the difference between gross receipts and operating expenses is the same each year then it would make no difference whether you used an average or took any particular year?

A. Except that the equalizing process would go on very much quicker.

Q. The result of your theory to the hypothetical case which I have put, which hypothetical case lays aside all influence which change the conditions from year to year and assumes a continuation year after year of the same condition, in order to test the exact influence of your system, or of your theory, it would appear that it would be possible for the same railroad property maintained at the same standard of perfection and earning the same gross receipts and having the same operating expenses for seven years would be placed upon the assessment roll at valuations varying from fifty-two millions to \$71,760,000 and in no two years would the valuation be the same, and in two years would the taxes be the same, am I right?

A. Still we are on the hypothesis, and with this rule on the hypothesis you have made, which is an impossible hypothesis, it is true. It is utterly impossible that a thing of that kind should happen in a railroad, it never has happened, and it never will happen and it does not lie in the nature of the railroad business that it can happen.

Q. Isn't this true, that in order to test the exact influence of your system of valuation and to compare the effect upon property for different years you must necessarily assume the existence and continuation of the same conditions in all other respects, otherwise no comparison could possibly be drawn?

A. Yes, and your figures for example have assumed that after forty years there is a jump in the confidence of the public so as to reduce the capitalization rate from $4\frac{1}{2}$ to $3\frac{1}{2}$ and 6 to 5.

Q. You have said that was correct?

A. That is not commercial psychology.

788 Q. You have said that it was conceivable that such a thing might happen without any change in the net surplus from operation?

A. I didn't know that I said that it was conceivable as a reasonable proposition that that would happen.

Q. You said certainly that it was conceivable, that your opinion would be that it would be proper to reduce the capitalization rate from $4\frac{1}{2}$ and 6 to $3\frac{1}{2}$ and 5 without any change whatever in the net surplus from operation.

A. Did you put those figures in?

Q. I may or I may not have put in the figures. You said it was conceivable that a reduction might be made?

A. Yes, sir."

The present differs from the 1900 system, in the rates used (1900, 4 and 6%); allowance in the present system for deficits on branch lines; addition of taxes to operating expenses (in 1900 hypothetical tax substituted for actual); using the average net surplus for 5 years (in 1900, 10 years); difference in assignment of earnings for 1902.

In 1900, I arrived at the average net earnings from operation for 10 years, before paying taxes, deducted from this for annuity on

physical property 4% plus 1% in lieu of taxes, and adopted this as the average rate paid by other property in Michigan. The remainder was capitalized at 6% plus 1% for taxes. My explanation of this is contained in my report to the State tax commission.

Witness read from report, page 9, as follows:

"In discussing the rates to be used, there are three points," and the third points read- as follows:—"It is necessary to consider next the rate accepted for capitalizing the final surplus, which capitalization is the value of the non-physical elements of the railway corporation. By referring again to the percentage above, it will be seen that 7% is collected for capitalization which results in giving a value independently of paying 1% to the State as tax and 6%
789 returned to the investors, and the reason for allowing 1% for taxes has been stated in the foregoing paragraph," etc.

The separation of 7% into a rate of 6% and taxes 1%, was not made in my report to the State board of assessors for 1902, page 56.

The Michigan Central R. R. sheet, vol. 3, "Computations A, B, C, Michigan Central appraisal 1900," does not indicate that part of the 7% was taxes, and part capitalization.

It was understood from the beginning that the 7% was made up of the items of 6% capitalization and 1% tax. The report submitted to the board separated the two.

790 In 1900 we investigated and informed the legislature, whether railroads by the gross earnings tax paid a higher or a lower rate than was paid by other property.

The effort was to ascertain the rate of taxation railroads were paying on the cash value of their property, and to compare that with the rate which other property was paying; and we took into consideration the fact that other property was not assessed at true cash value. We were not at the time seeking for the true cash value of railroad property, as I understood it.

We were seeking to bring the properties to the same basis, and the object of adding 1% was to reduce the value beyond possibly what true cash value would be, so that a comparison between the railway and other rate might be proper.

The effort was to arrive at a modified cash value. We tried to make allowance for the increased rate of taxation resulting, thus reducing the value below what the market had shown to be true cash value to equalize it with other property. 1% was accepted because that was the average rate paid on the par value of other property. The report assumed the valuation of other property to be 65% of true value, and we figured that other property was paying 1% on true cash value.

(Witness reads from report.) "This conclusion rests upon the assumption that the rate of taxation is .1546 and that the average assessment of property is 65% of its total value. It is of course clear that .1546 on 65% of par value is the same thing as one per cent. of par value. If on further investigation the percentage upon which

this conclusion rests are found to be incorrect, the computation here submitted should be modified accordingly."

The form of computation resulted in a valuation of railroad property, free from incumbrance of taxation—on the same basis as other property.

791 With this explanation I say we were seeking to get the true cash value of railway property.

It is a question at what time increase of taxation affects valuation,—the 1900 computation assumed that its effect would be immediate. It is not true, however, that an increase of taxation immediately affects the saleable value of property on which it is imposed. To that extent the 1900 valuation would not be at cash value—it was below.

The problem of 1900 was different from that of assessing property.

I explained this system to the industrial commission at Washington.

I have never read that testimony. I have forgotten what I did explain. I adopted a tax rate in 1900 of .01546.

(Witness presented with report to industrial commission, vol. 9, page 380.) I am reported as saying that the average rate of taxation in Michigan was about .1475. I don't know whether this is reporter's or my mistake; also, "The average appraisal of property is about 65% of its value, therefore we reduce this to a par basis of 1%." I know of no official determination of the tax rate in 1900. The rate taken was that accepted by two or three tax commissioners.

I would not have been willing to stand by it as an answer to the question asked. The effort was to reckon with the actual average rate of taxation paid by other property, but in report I said:

"If on further investigation the percentages upon which this computation rests are found to be incorrect, the computation here submitted should be modified accordingly." Meaning the 65% and .1546%, and the 4 and 6% rate capitalization.

792 The 4 and 6% was low enough, under the conditions under which the report was made. It was not necessary to approach the question with the care necessary in assessing for taxation purposes, or if I were employed to pass the judgment of an expert on the valuation of a certain board. I never received any suggestion that it was desirable, if it could be honestly done, to squeeze the present valuation up. In 1900 it was suggested that doubts be resolved in favor of railroads. For this 1902 valuation I have not understood, that no doubts were to be resolved in favor of the railroads,—quite a number have been resolved in their favor. The 1900 valuation was done very rapidly.

Further investigation would not result in deduction of the annuity plus actual tax rate, as preventing the vacillation referred to in the hypothetical case.

The tax rate changes from year to year, and under this plan the rate would be changed to conform.

The 1900 system, with 1902 percentages, swells the net earnings by the tax actually paid, deducts $3\frac{1}{2}\%$ plus the actual tax rate; capitalizing the balance at 5% plus actual tax rate.

(Counsel makes computation for Michigan Central R. R. and states result \$53,000,000.)

Counsel makes computation for Michigan Central R. R. for 1902 by 1900 method and rates, and reaches value \$49,538,000.)

In 1902 have used the earnings of the system as basis of computation; have treated the system as a whole, the taxes were taken out before any apportionment. In 1900 I used the reports of the Interstate Commerce Commission for taxes.

An allowance for deficits on branch lines has resulted in making a difference of 12 or 13 million dollars. Other things being equal, if we had followed the 1900 method the appraisal of the Michigan Central R. R. would have been 12 millions higher. On further study I thought it better to treat the roads as a system.

793 The 1902 application is in every respect superior to that of 1900. I can not segregate values on account of the conditions of the Michigan Central R. R.'s books. To apply the rule to Michigan Central R. R. as a system results in giving some branch lines a less value than Cooley's valuation.

Assuming the reports of earnings and expenses on branch lines to be correct, some fail to show earnings equal to the support of the physical property and payments of bonds on those properties.

The rule does not specifically state what would be done in case of a property showing a deficit.

In 1900 my opinion was (and is now) that where there was a deficit,—not sufficient to pay an annuity on the physical valuation,—I would reduce the physical valuation of Cooley, but not to its full capitalization. Cooley's valuation does not necessarily represent value whether there are earnings or not. I did not in 1900 report the property worth less than physical appraisal. I was not asked to state the physical valuation.

I would not say that in 1900 the appraisal of all railroads whose net earnings were not sufficient to pay an annuity on physical valuation, were too high; they may be too high or too low.

It may be proper to get the true cash value of roads having deficits, to make a deduction from the physical valuation, but whether it is or not requires investigation into the conditions and prospects of the road. In such case the method of capitalization of net earnings is in error.

(Witness' testimony before industrial commission on this point read.)

The 1902 assessment, as compared with the Cooley-Adams figures, is so different as to show there must have been a judgment on

the part of the board of assessors. The variation is great if you take road by road; in the aggregate it is not so great.

794 From this fact I conclude that no assessment has been based on my appraisal.

In the rate of capitalization, railroads are subject to classification with different rates. I have examined two roads and found two classes. My method may have been used by the State board of assessors, except the rate of capitalization, but I am sure it was not the case.

The study of the rolls indicates that there is no intimate relation between them, so far as can be seen on the surface. Any rule must be used judiciously in view of the conditions, including length of existence.

In the hypothetical case presented, if at the end of 7 years the road could be reproduced for 28 % less than actually produced for, we would take the physical value as found at the time, regardless of cost.

Vitality and organization of industries served is one element of non-physical value. Property along a railroad is affected by the construction of the road. If, in appraising the cost of reproduction, value is placed by reference to the value of adjoining property, there has been included in physical value an element of non-physical value, to the extent of the rental value of the real estate. This is not really different from the value of real estate, but suggests the essential element in land, independent of improvements on account of access to market. It is commonly said that the value of land, independent of improvements, is the capitalization of its annual rental value. If we regard rental value as a non-physical, the physical appraisal has included non-physical elements, but there is no difference between a purchase of land and renting it, except that a purchase may be called rent in perpetuity.

795 The value of railroad property for taxation is the same as for fixing reasonableness of rates. I never had occasion to make an examination for the purpose of determining value, as a test of reasonableness of rates. I have no settled opinion on that point. I am not sufficiently familiar to answer whether a railroad may have one value for taxing purposes, and another for determining reasonable rates, but I can hypothetically conceive one rule for one case and another for the other.

There would be this limitation to applying my theory to determining the value for the purpose of fixing the rate; in a sense it would be working in a circle, because our valuation depends on established rates and traffic. If rates were lowered by the State it might lead to a corresponding lowering of the value of taxation. The valuation would not remain the same under the reduced rates, unless there was a corresponding expansion of traffic. Rate is not the only element making up gross earnings,—lots of elements come in there.

"Q. If the rule of law is that a railroad company is entitled to charge

such rates as will yield it a fair return upon the value of the property devoted to the public service, would your system be a proper one to determine the value of the property devoted to the public service?

A. That depends entirely upon your interpretation of the value of the property upon which the road is entitled to its reasonable earnings.

Q. I use that phrase advisedly, the value of the property devoted to the public service, assuming that is the law, would your system be a proper one to be applied in determining the extent of that value?

MR. WYKES: We object to the question as calling for a legal conclusion and not proper cross examination.

A. I think the court could get a good deal of light by following this plan even upon a rate question."

796 This is a proper method of arriving at cash value for taxation, but I would not care to answer on a rate question without a great deal of study, which I have not given it.

In determining average net earnings I took the figures in the reports of the company for operating expenses. I assumed these to be legitimate, and made no reduction for the million dollars (the Michigan Central R. R.) I included in operating expenses for improvements. That a large portion of operating expenses have been in fact permanent improvements has influenced the rate of capitalization; and the theory applied to the Michigan Central R. R. has involved a determination of the propriety of charges to operating expenses. Operating expenses cover those expenses necessary to repair, maintain and operate the property.

By reason of the inclusion of operating expenses in permanent improvements I have allowed the corporation a smaller annuity on physical valuation than otherwise. It was either this, or to capitalize the sum paid for improvements, which would have resulted in capitalization in excess of \$20,000,000. The influence given to the method of bookkeeping on rate, was not a mathematical adjustment, but a study of the influence the method had on the mind of the investor. I assumed that the extent to which permanent improvements were charged to operating expenses was correctly stated by Com'r Prouty, of the Interstate Commerce Commission, in his opinion in proposed increase freight rates. One figure was corroborated by the company's report to the State board of assessors in 1902.

On page 37 it is stated that \$1,383,939.22 is included in operating expenses for permanent improvements, and \$210,000 paid for permanent improvements charged to income, being paid from current earnings.

(M. W. Thompson here called to prove correctness of computations found in Exhibit 8, Feb'y 26, 1904.)

797 "It is understood between counsel that the two sheets, one marked 'Michigan Central Railroad Company leased and

operated lines in Michigan,' and the other marked 'Michigan Central Railroad Company leased and operated lines entire system,' and furnished by Mr. Burt, auditor for the Michigan Central Railroad Company, shall be considered as evidence in this case as fully as though Mr. Burt had testified to it. Papers referred to marked Exhibits 1 and 2, Feb. 29, 1904."

Where a road is running in debt for current liabilities it can not pay, the physical value will not be the value for taxation, but should be reduced. It is impossible to apply a rule resting on earnings if there are no earnings; an inventory and an inquiry into the reason why it fails to pay operating expenses should be made.

If all reasons are legitimate I should think it without much cash value. If the policy of paying to stockholders everything earned, to the *exclusion of maintenance*, is followed very long the condition of the road would justify a higher rate of capitalization, because it would deteriorate. The expense for permanent improvements in the Michigan Central R. R. was not essential to keep abreast of the times. Those reported are in excess of what is necessary to maintain and repair property; all that are necessary for repair and maintenance are included under the classification of operating expenses.

I am not sure that in the case of the Michigan Central R. R. I would have increased the rate of annuity on physical valuation, if the million dollars included in permanent improvements had been paid to stockholders. The situation is, if the million dollars had been paid to stockholders, this rule would have added 20 millions to the property's value. The increased dividends, on account

708 of the transfer of this amount to the dividend fund, would not have caused a rise in stock prices equal to 5% capitalization of improvements, indicated by comparison. It acts practically as undivided dividends or profits in a bank; it changes the character of the stock, and makes the dividend almost a fixed charge; it gives to the holders of the securities an added commercial value, and causes them to place a higher estimate on the securities. In case of the Michigan Central R. R., whether times are good or bad, the 4% dividend is paid; the influence of the Michigan Central R. R.'s policy upon investors is to create confidence in it, and through this influence we justify the low rate of interest. I would not say we adopted the low rate of interest because of improvements, but the fact that the Michigan Central R. R. follows this method of financing is one explanation why investors place so high a valuation on its securities. The mathematical give and take, suggested by the question, does not appear to exist.

If the amount spent for improvements had been paid to stockholders I should desire to be guided by the result expressed in the price of the security, as to whether the difference in rate of annuity or capitalization should be made.

The fact that the Michigan Central R. R. for a long series of years has charged improvements to operating expense causes capitalization at a lower rate. We took the operating expenses, as reported,

and accepted the fact that improvements had been paid for in operating expenses, as explanation of the low market rate,—that and other things.

Money spent, during a series of years, for permanent improvements, appears, less deterioration, in the physical appraisal. If permanent improvements, costing \$50,000, had been built out of operating expenses, they would be that amount too much under the official classification.

799 A correction of the account would increase net earnings \$50,000, its capitalization at 5% would produce a million dollars and the company be called upon to pay \$17,000 on the million; which is the reason we did not do it. A road so strong, that in addition to operating expense, fixed charges and dividends, it can put a million dollars into improvements, is in better condition commercially, than one expending all its gross earnings for operating expenses, fixed charges and dividends—on that account the property is worth more because permanent earnings are more.

There is a difference of opinion among railroad managers as to the proper construction of the term "maintenance"; some contend it involves expenditures not only sufficient to overcome depreciation, but to keep the road abreast of engineering development. I do not care to be understood as saying that a discussion in that form has been entered into by railroad managers.

In a degree the policy pursued by the Michigan Central R. R. is necessary, to enable it to continue to pay 4% dividends in good times and bad.

If I were a railroad manager I would try to do this, but I would state definitely, (as does the Northwestern), that it is a permanent improvement.

My belief is that what we have a right to capitalize is the increment, not the improvement, the earnings resulting from improvement, which appears in subsequent operations.

It is not necessary to determine the legitimacy of charging improvements to operating expenses, in order to determine that a road doing this is in better condition than one not doing it, and that a purchaser will pay a higher price for securities of the former, than of the latter. We must determine the extent to which this process

800 has gone on, and the policy employed to determine what influence it will have on the rate of annuity and capitalization.

We have put in the record the amounts for three years and a diagram showing the extent, on the assumption that 7% is normal.

A determination of the extent to which charges have been made, possibly involves the classification of expenditures, but it is not necessary for such judgment to go into that abstruse analysis, because we find the average operating expense for a series of years, and on an average taken as normal, make our decisions.

Redirect examination :

I have read part of Mr. Bowers' argument before the tax commission, which assumes that the net earnings of business come from two sources; profit on material and profit on labor; and denies net earnings, so far as profit on labor should be used as a basis of capitalization. The formal application of Mr. Bowers' rule is, that the profit on labor and supplies is equal to at least 20 per cent. of operating expenses, and that an equivalent amount must be subtracted from the net earnings, before capitalizing to find the value of the property.

I answer: First, whatever the source of income, provided it is permanent, it constitutes an element in the value of corporate property. Where cash value is sought it would not be proper to subtract any income it enjoys, which, if the corporation was sold, would be taken into consideration by the seller and the purchaser in arriving at value.

Mr. Bowers illustrates his point by the messenger service, where, from little property, a permanent income of \$25,000 a year, independent of management and expenditures, results. It is admitted, that under these circumstances it would be a good business transaction to buy the permanent annuity, flowing from the business at capitalization pertaining to this class of investments. The source of income is not the important fact, but its existence and degree of permanency.

Second, the word "profit" is used in Mr. Bowers' discussion with unusual meaning. It assumes that the excess, over the amount paid for wages, is profit, when in reality it is payment to the master mechanic for his services.

(Witness illustrates by diagram.)

B	
Owner- of land, or landlords.	Rent determined by laws of rent. C
Owners of capital, or capitalists.	Interest determined by the law of interest. D
Owners of organization, or entrepreneur or undertaker.	Profits determined by the success of the business; they may be regarded as wages paid by the employer to himself. E
Owners of labor, or laborers.	Wages determined by contract before the work is done.

A

"If we let the straight line A-B represent the total income from a business—and I am illustrating now a business of an ordinary kind—a certain portion, let us say from A to C, goes to labor in the form of wages, a certain other portion, from E to B, we will say goes to the owner of the real estate in the form of rent, another portion of this income, from D to E, goes to the owner of capital in the form of interest—and that word of course would cover dividends being the payment to the capitalist, there may be after these payments in any enterprise something left over, which is called profit. Now the character of these payments into which the general income is divided is shown if we place upon the other side of the line the classes that receive these various forms of income. Against rent there is the owner of the land, technically called the landlord; against the interest, the owner of capital, technically called the capitalist; against wages there is the owner of the labor, which we will call the laborer, and against the profit there is an industrial class which in France among French economists goes by the name of *entrepreneur*, and which in German is called the *unternehmer* and which in England is called the *undertaker*, but which in this country, owing to the funeral sound of that word, is called the *entrepreneur* or the undertaker with

the emphasis on the third syllable. This enables us to give a definition of profit. It is not necessary to go into the definition of wages.

Profit is technically defined as self-payment for self-employment—that is not, I would say, a complete definition, but it is accurate as far as it goes and that is as far as it is necessary to go to make clear the point. This being true it is evident that labor of all kinds includes mental as well as physical labor and that it receives its return either in the form of wages or in the form of so called profit; this at least is a correct statement of the case so far as the numerous illustrations in the pamphlet are concerned to show that people get a profit out of labor. It is not capital that gets the profit out of labor, using that word in the meaning of the pamphlet.

The profit in these illustrations then is the payment to the master mechanic for his own labor, and in the analysis of operating expenses used by railroads both wages and profit in the meaning of the pamphlet are included in the wages of employees and superintendents and salaries of officials; that is to say, the operating expenses in the case of a railroad cover all kinds of labor and all kinds of superintendence with the possible exception of the labor of the stockholders in voting for directors. The only activity so far as I know incident to the operation of a railroad not covered by the classification of operating expenses is the activity of the stockholders in electing directors.

Now, it seems to me, therefore, that every payment for labor is covered by the operating expenses and that the measure of the property of a corporation, which is made the basis of its security, is the difference between the gross earnings and operating expenses without any deduction of any sort; to say otherwise would, of course, be equivalent to saying that the laborers do not receive a value in wages equal to the value that they create by their labor, which would be equivalent to a confession that the wages under established rules at least are not fair wages.

Third, technically there is an error, as it seems to me, in this method of procedure in that the plan computes a profit upon expense; now, that is an unusual method of computation. Usually profit is computed upon the income, and while I lay no particular stress upon this point as touching the vital error of the pamphlet, it does lead to the rather peculiar result that the higher the expense the greater the profit."

802 Fourth, application of this rule would in many instances wipe out the value of property. Assume a business operating at 84%, then a profit at 20% of operating expenses, due to labor and supplies, which would be 16.8%, to be subtracted from net earnings before finding a fund to be capitalized, where there is only 16% independent of the deduction.

The application of this plan is indicated by a computation which is as follows:

Total value of Michigan portion of Michigan Central Railway system, computed according to a method proposed by Mr. L. W. Bowers, counsel for the Chicago and Northwestern rail-, in his brief upon railway taxation, submitted to the State board of tax commissioners Feb. 11, 1904.

Average annual gross earnings of the entire Michigan Central system for the five years, 1898-1902, inclusive	\$16,818,986
Average annual operating expenses of the entire Michigan Central system for the five years, 1898-1902, inclusive.....	\$12,726,771
Add (per Mr. Bowers) 20 %, so-called "profit"	2,545,354
Total to be deducted from gross earnings.....	15,272,125
Remainder, out of which to pay taxes and to get annuity to be capitalized.....	1,546,861
Michigan portion of said remainder assigned upon a track-mileage basis (ratio 69,145,972 : 1000,000,000)	1,069,592
Average annual Michigan taxes paid by said system during the said five years...	364,462
Michigan surplus to be capitalized...	705,130
Capitalized value of said surplus (which, according to Mr. Bowers' theory, is the entire value of Michigan portion of Michigan Central system, including both physical and non-physical elements)—ratio for capitalization being taken at 3½ %	18,803,467

803 The theory rests on the same conception of labor and wages, as Carl Marx'- system of socialism. In short, that the capitalist does not pay the laborer the value the laborer creates. The accepted doctrine of wages, at present, is that they are not paid out of capital in the sense that the capitalist supports labor, but that labor is self-supporting; so when a corporation pays laborers wages it returns the value they created.

Recross-examination:

Instances, combined labor exceeds the sum of the results of separate effort; that comes into existence with organization; it is the increment of productivity due to organization. I stated in my direct testimony, where I defined profit as self-payment for self-employment, that the amount received by a master mechanic, over that paid his journeyman, is in reality a payment to himself for his labor and experience; also in profit (remuneration to management) there is included increased productivity of laborers, organized in a compact body, as compared with the sum of value these laborers might produce working independently.

In my opinion, the perfection of adjustment of the wages of the laborer would require payment to him of a sum equal to his contribution to the corporation's gross income. It is an open question whether the net earnings of a corporation employing labor are in part contributions by employees, in excess of the wage paid; the decision depends on a determination whether the wages are just. If you don't pay your employees the full value of their services, and people buying your stock and property know you don't, and know, or feel confident, that you are not going to for 50 years, and that difference is going to them in bigger dividends, they will pay more for your property and your property is worth more. I don't think it possible to analyze the value a particular laborer contributes.

The illustrations in Mr. Bowers' pamphlet are misleading, as he takes up an industrial, where the relationship is personal, and then places the conclusions arrived at, without modification, to an industry with 50,000 employees and a highly organized system of superintendence and management.

It is impossible to ascertain the contribution of an individual employee to a railroad's gross income. A perfect adjustment of the wage question, under present conditions, is impossible. There is no such thing as absolute ethical adjustment. This being true, there may be a contribution of employees in excess of wages paid.

If this advantage is permanent,—a permanent income reflected in property value, the assessor must take the net income, whatever its amount or source. When you buy the property of the Michigan Central, you buy it with all attendant advantages. It is worthless except you have engineers. The value of a material thing is meaningless, unless you take it in connection with the use to which it is to be put. Value from the labor of employees attaches to the property.

The engineer and executive official are placed on the same basis, in classification of operating expenses, and I see no reason why they should not be in this connection, and there is no difference between the effect of managerial capacity and efficiency of labor, on physical property. If the advantage spoken of attaches to a corporation's property, it would be proper to take it into account in valuation for taxation, where the object is to tax upon the true cash value of property.

805 " Q. Then if the corporation which owns the property should see fit to lease the property in toto to some other corporation I take it that the value of the property for the purposes of assessment to the owning corporation would remain the same in spite of the fact that the lessee was receiving this advantage, because you say the advantage attaches to the property?

A. That may be true, but my plan makes provision for that in that it permits the rentals of all property not assessed to be deducted from the earning. My plan makes very careful provision for that situation in that besides taxes there is deducted from the earnings

before getting the fund to be capitalized the rent which would be paid by the operating company for the leased property, the theory being that that property would be taxed, whatever it might be, more or less, to the company that owns it."

Rent paid by the operating company to the lessor would be the lessor's entire gross receipts, and would be deducted in income account of operating company. For purposes of taxation I should see the character of the lease, whether in perpetuity, amount, conditions, etc.

The advantage a company owning and operating property enjoys, because its employees yield something to the gross receipts in excess of their wages, attaches to the property, and is an element of value for taxation. When two companies come together to make a rental all these facts would be considered in fixing it.

Q. If income of a corporation owning and operating property is solely a contribution of the taxable property, then that net income would be the fair rental value, and the owning company should receive the same whether it operated the property or leased it?

806 A. The net income—difference between operating expenses and gross earnings—would doubtless be fair rental value. The rental value would be determined as indicated, and cover all questions of earnings. Whether valuation of property for taxation the same against "a company," whether it operated or leased to another, would depend on rule followed in capitalizing rental, to determine value of property of A. The rental value commonly less than lessee proposes to make out of it, the parent company almost always seeks to get some advantage by the connection, *e. g.*, case of branch lines. A corporation seldom leases a single property; it leases several for purpose of organizing and grouping to create value greater than that of properties integrally. If sole motive of corporation leasing property to create new value not before existing, the value for purpose of taxation (to owning company) would be the same before and after.

Q. I am speaking of case where no connection involved. No question of further increased value; but where one corporation hires another's property for purpose of operation, without other elements?

A. The difficulty is, your assumption is contrary to possibility. Under those circumstances there would be no motive in parent company leasing road, if leasing company had today all earnings in rental, what does it want to operate road for?

I never objected to the statement that all earnings of the company came from operation of property. My proposition in answer to Bower's brief, under the interpretation of profit, is that earnings are contributed by taxable property, and there is no contribution to the net income of the company from efforts of employees in excess of their wage,—in this interpretation, property includes organization.

807 With the interpretation that taxable property includes all elements going to make up non-physical value, I think, all net

income is contributed by taxable property. I said, if the taxable property in its entirety were leased to another company to operate, the net earnings would be fair rental, because produced by taxable property. If the hiring company had the same gross earnings and operating expenses as the lessor had there would be no hiring company, because no motive to hire. The illustration seems to mean, shall we tax certain property to A, the same to B, when conditions are the same. Valuation ought to be the same whether in name of A. or B.

Q. Would not the same be true of Majestic building, Detroit; assume gross receipts of owner for rentals, who manages, collects rent, buys fuel, and hires janitor and elevator service, to be \$30,000 a year; that he pays for fuel \$5,000, labor \$5,000, making net receipts \$20,000, in your view, is all of that contribution taxable property? The \$5,000 for help includes fair compensation to owner for his labor.

A. The \$20,000 is income from rental of offices and rights from the ownership of building. I think a fair rental value to owner would be the amount he could make managing it himself, less the amount he would charge to himself as manager, which would be \$20,000 in the case put. If he doesn't put in any capital, either for hiring janitor or getting fuel, but pays out of proceeds.

Q. If the lessee operated building and had same gross receipts and operating expenses, he would get exactly what he would get from some other effort working for another, i. e., the wages charged up to the owner of the building as his compensation?

308 A. That is not quite correct. You are assuming a case in which the employee changes his industrial position to self-employment, has risks and takes responsibilities he did not have before—for this he gets the same compensation as the man who owned the building. If the motive of person previously employed at certain rate of wages be to work for himself, the motive would be simply the difference in yearly compensation he gets as wage, when employed for another and when employed for himself; further, he speculates on the increased demand for offices and rate,—another motive.

The man who takes risks gets more than the laborer. In answering, assume the \$5,000 fuel purchased and consumed was furnished at cost.

Q. If in commerce and business, it is reasonable to say that owners will be entitled to receive for that fuel a fair increase over the price paid, isn't it true that a portion of the \$20,000 came from that, rather than the taxable property?

A. Yes—that changes the situation as I understood the question. It seemed to me to be a little violent to call the \$20,000 rent, because a man who puts up a building must provide ground and capital for building, invest in supplies, and where he sells heat to occupants in excess of cost he is a manufacturer of heat and makes profit on

manufacturing. That must be taken into consideration in fixing rental.

A railroad company is, to the same extent, a manufacturer of heat in passenger cars to keep passengers warm. The profit on sale of heat is one reason it was thought wise to increase the valuation of the Michigan Central R. R. by material and supplies on hand. As that necessitated expenditure of money for capital I thought it proper to allow a return for material and supplies on hand. The
809 profit derived from consumption of fuel and furnishing heat to passengers is included in net earnings.

Q. Should this profit be deducted before capitalizing to find the value of the property producing net earnings?

A. I was not assuming material and supplies is taxable property.

Q. I am not speaking of material and supplies on hand, but of those consumed during the year in the operation of the road?

A. As you put it, it does not represent facts. The fact is that material and supplies on hand are regarded as capital the railroad must devote in the process of operating the road; they don't sell those supplies; they pass them through the operation; get their earnings out of the difference between cost of service, taking everything into consideration, and the price paid. I don't think there is anything peculiar in the profit on material and supplies, compared with profit on locomotives or stations. The whole thing is right there, and we include all. Full earnings of the capital are found in the net earnings. If we take net earnings as the basis of estimating capital we get the right result.

I thought we had assumed taxable property to be capitalized net earnings.

Q. We have—capitalization of net earnings from taxable property, not capitalization of net earnings from consumption of coal.

A. These are a part of the whole thing. Railroads sell service—transportation; they don't separate specific profit on coal, etc.

I can't see why it is sound analysis to separate earnings from coal, more than earnings from locomotives or engineers. Earnings come from the combination of the whole. If it is fair to allow a
810 corporation to sell coal to public for more than it pays for it, whatever profit is derived from selling the coal is in net earnings.

Q. If it is possible to ascertain the amount of profit on coal in net earnings, should it be deducted before capitalization to find the value of taxable property?

A. No, sir; no more than right-of-way, locomotive or any other element used in operation in attaining net earnings.

Q. If a portion of the net earnings is derived by profit on the use of equipment hired, should that profit on hired equipment be deducted before capitalization?

A. No, sir; not at all. If owning company pays taxes on locomotive, and there be an increase above rental, resulting from that locomotive, to leasing company, it would go into the net earnings

capitalized. The capitalization of the increment will not produce a value to a locomotive some one else owns and pays taxes on.

Capitalization of net earnings is equal in amount of money made out of it. The question presented to the corporation will be, whether the rent on the locomotive is greater or less than the interest on bonds sold to secure money with which to buy it. Earnings from it would be the same whether owned or leased, and would have the same effect on the net earnings of the company and the value of taxable property. Under the assumption, the value of the taxable property of the corporation is the same whether the locomotive is owned or hired. The leasing company, on account of its relation to traffic, lay of right-of-way or other difference, may make use of a locomotive superior to that of the owning company, and this margin is the basis of the increased net earnings referred to, and is reflected in the increased value of the property. Under no other assumption is a lease of that kind possible.

811 Q. In Michigan Central R. R. car mileage balance for 1902, \$500,000, do you assume that there has been no profit to the hiring corporation by using these cars above payment for their use?

A. This payment is included in operating expenses, and works out in the final result of net earnings. The earnings of those cars, where there is a balance on the credit side account, would cause an increase in the valuation of railway properties owning such cars. If there are any earnings from foreign cars, they are capitalized to find the value of the Michigan Central R. R.'s property. There are no earnings of foreign cars by themselves. In the existing situation you have earnings for carrying your traffic, and to the extent that foreign cars contribute to those net earnings they are included in capitalization.

Q. Referring to annihilation of physical property for taxation purposes, where operating expenses are more than 84 per cent. if a railroad company receives increment from labor, material and foreign cars going into net earnings, and net earnings are not sufficient, in excess of increment, to show the value of taxable property by capitalization, would it be true that the operation of road is not being economically carried out, or was not a successful enterprise?

A. This proves that temporarily somewhere the property is not valuable, and not a success at that particular time. They may have put their property there knowing the country is to develop in the future. It does not mean that it is a bad financial enterprise, but simply that it does not show net earnings. Taking the books solely, knowing nothing about prospects, I would say it was not a success,—no person would judge on that basis.

812 Q. If an examination of the books, knowing nothing about prospects, indicates that road is not successful, would it be fair, in the application of Mr. Bower's suggestion, to divide the element of failure between contribution from taxable property and other items he suggests?

A. I don't think any help could come from that process of analysis. A road, situate as you have described this one, would probably be less than physical value.

813 HENRY C. ADAMS re-called as witness for defendant, testified as follows:

Direct examination by Mr. BLAIR:

Q. Since you were on the stand last, have you been examining other railway properties than the Michigan Central and Pere Marquette with reference to fixing non-physical values upon the same plan followed in 1900?

A. I have examined with some care all the roads which appear in this suit and have not gone outside of those roads and have confined my attention primarily to those whose earnings are capable of supporting a value in excess of the physical valuation as found by Mr. Cooley.

The roads which under this statement it will be necessary to report upon in answering your question will be the Ann Arbor, the Detroit & Mackinac, the Duluth, South Shore & Atlantic, the Grand Rapids & Indiana considered as a system, the Grand Trunk Western, the Manistee & Northeastern, the Michigan Central already has been reported upon, the Minneapolis, St. Paul & Sault Ste. Marie, the Pere Marquette has already been reported upon; the Pontiac, Oxford & Northern and the Sault Ste. Marie Bridge Co.

I have not fixed non-physical values upon certain of the railway systems like the Lake Shore & Michigan Southern, the Chicago & Northwestern and some other roads, owing to the paucity of reliable data which these roads furnish to the State railroad commissioner of Michigan, and partly also to the peculiar conditions under which these roads operate.

I might perhaps say in the case of the Chicago, Milwaukee & St. Paul that two years ago I secured from the auditor of this road a special report for a series of years upon their Lake Superior division which gives the earnings and expenses upon a property that seems to be fairly well segregated from the main property and divided between the two States of Wisconsin and Michigan; upon that report no intangible value appeared two years ago and the situation was not materially changed this year and upon cursory examination I inferred that there would be no intangible value this year. I did not, however, get a corresponding special statement this year for that Lake Superior division.

In the case of the Chicago & Northwestern the condition of the traffic is very peculiar. It appears to me that the Michigan portion of the Chicago & Northwestern although connected with a large property, is almost an isolated property and upon as careful an examination as I could make I was led to the conclusion that the appraisal of the State board of assessors was a fair appraisal; there

was no information before me that was not before them and I acquiesced in their judgment of that property.

Now that leaves the Lake Shore & Michigan Southern; the question of valuation of this property is not so much a question of the measure of the value as the location of the value. It too is a property that I think unique so far as the railway situation in Michigan is concerned. Its through line, that is, its important line—
 814 not what in the reports is called the main line—lies in Illinois, Indiana and Ohio; the bulk of the traffic, the east and west traffic, goes over these lines, and then from this as a backbone there come up into Michigan quite a number of feeders, branch lines, which are of importance to the company primarily because of the traffic which they bear to the main line system upon which it gets the haul east and west. Two years ago I tried to make something of a special investigation of this property and sent a man to Cleveland for that purpose, but he could get no information, and in short the avenues of communication were very carefully and courteously closed.

The reports to the State railroad commissioner are in my opinion unsatisfactory for any sound judgment as to the value of this property. Manifestly a method of valuation which rests upon earnings and expenses in any degree whatever must start with full, complete and systematic reports. The absence of data then, in short, is my reason for refraining from expressing an opinion upon the value of the Lake Shore & Michigan Southern property in Michigan.

In connection with the Chicago, Milwaukee & St. Paul, I acquiesce also in the valuation of the property by the State board.

Q. What do you mean by the word "acquiesce"?

A. I mean that in my judgment they have gotten the value about where it ought to be, an opinion of course which might be modified by information.

I have here a paper which gives the information relative to the assessment of railway properties in this case rather completely; I will explain it though, and not read it in detail.

It gives first the so-called Cooley-Adams appraisal of 1900 and the assessment by the State board of assessors of 1902, and the increase or decrease by roads of the assessment of 1902 over the Cooley-Adams appraisal of 1900. This is followed by the Cooley-Adams appraisal of 1902, that is, if that be the proper phrase to give to this information.

This too is followed by the increase or decrease of the 1902 appraisal over the 1902 assessment.

The table then gives the 1903 assessment of the State board of assessors followed again by comparisons showing the increase or decrease of the assessment of 1903 over the assessment of 1902.

Referring now to the Cooley-Adams appraisal so-called of 1902 I have called mine "appraisal" all the way through, and the board's "assessment."

Mr. BUTTERFIELD: Note an exception to this as incompetent and irrelevant.

Since my former testimony was given Mr. Cooley has modified the figures for the physical valuation of the Michigan Central and the Pere Marquette roads from the figures handed me when I was on the stand before, which necessitates a modification of the final result. The following are the corrected figures:

Michigan Central, entire system.....	\$46,101,011
Non-physical elements.....	17,789,200
Aggregate valuation	<u>\$63,890,211</u>
Increase over 1902 assessment.....	<u>\$18,900,211</u>
Pere Marquette system, including cash and supplies,	
physical valuation	\$37,130,276
Non-physical elements.....	9,523,823
Aggregate valuation	<u>\$46,654,100</u>
Increase over 1902 assessment.....	<u>\$20,654,200</u>

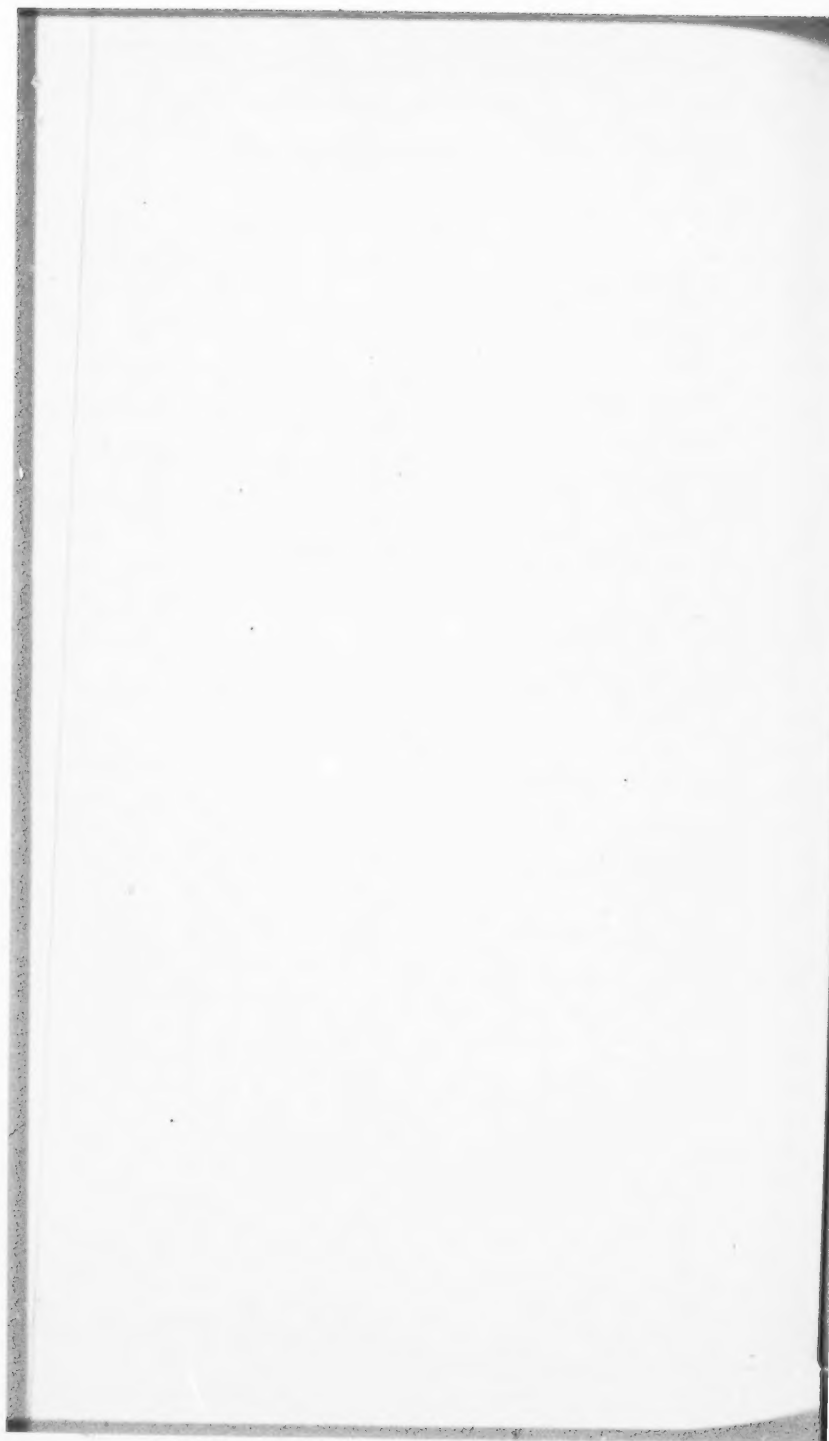
815 Q. Now with reference to the Copper Range, what disposition did you make of that property?

A. I left that as the State board of assessors placed it in 1902. It is a new property which has advanced in its gross and net earnings very rapidly since it began business, and the judgment as to what this property is worth depends so largely on the probability of the continuance of those earnings in the future that I thought the valuation ought not to be made exclusively upon the basis of the returns of earnings and expenses, and for that reason I accepted the valuation of the board. There are a good many points about this property which it would be necessary to take into consideration in addition to the data furnished by their reports.

Q. Do you care to say anything about the Mineral Range?

A. The Mineral Range also presents a rather peculiar situation. The physical valuation of the Mineral Range was raised. The Mineral Range also took in the Hancock & Calumet which two years ago by its reports showed a non-physical valuation but which seems to have lost some of its business as indicated by its reports. This road is a road which depends very largely upon the mineral supply and as in the case of the Copper Range I should not be willing to express a final opinion upon its value except upon a definite investigation upon the ground or from those who know it more fully than one can know the property by the reports. So far as I can see, the assessment of the board is a fair assessment.

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



Mr. BLAIR: We offer this in evidence, being a comparison of the Cooley-Adams appraisal of 1900 and 1902 with the assessments of the State board of assessors for 1902 and 1903, being the paper referred to by the witness in his testimony.

Paper referred to marked "Exhibit 1, April 2, 1904."

Mr. BUTTERFIELD: That is objected to as incompetent and immaterial.

(Here follows comparison of Cooley-Adams appraisals for 1900-1902, marked page 816.)

817 Cross-examination by Mr. BUTTERFIELD:

I followed practically, the same method with these roads as with the Pere Marquette and Michigan Central. I modified only as necessary, on account of changed conditions.

In the case of the Ann Arbor, I took the net earnings of the entire system, and deducted a sum to support the value of the Toledo terminal. The remainder equals the earnings necessary to support Michigan property, to which the Cooley-Adams plan applied. I got information of the value of the terminal from the report to the State board of assessors, and the hearings before the State board, and tested to see whether fair.

I allowed a million and a half for the Toledo property (practically all the Ann Arbor road outside of Michigan). The sum of the Cooley appraisal and this would be the total physical value of the Ann Arbor road.

After ascertaining the Ann Arbor net earnings, I deducted an annuity, sufficient to support the $1\frac{1}{2}$ millions at 5 per cent. I then deducted from the remainder an annuity on physical value as determined by Mr. Cooley, for 1902, at 4.25 per cent. and capitalized the balance, to determine the Michigan non-physical, at 6 per cent. The 5 per cent. used to ascertain the annuity to support the property outside of the State, seemed fair in view of the rental the property paid or secured, when we took into consideration the use made by the Ann Arbor R. R. of the terminal.

This was not a definite mathematical calculation. I adopted 4.25 per cent. on property in the State, in view of market quotations on the 4 per cent. bonds; (being practically all the bonded indebtedness of the road for 4 or 5 years.) For 1902, earnings to investors would be 4.7 per cent. According to quotations for fiscal year ending Aug. 9, 4.09 per cent.; 1901, 4.14 per cent.; 1900, 4.38 per cent.; 1899, 4.41 per cent.; making the average about 4.25 per cent. I was influenced in the 6 per cent. used, to determine non-physical by the fact that I gave the Pere Marquette 6 per cent. The rates 4.25
818 per cent. and 6 per cent. would make the Ann Arbor of a little higher class. I found sufficient record of Ann Arbor quotations, to enable me to determine the average price with abnormal conditions eliminated.

Sales were of sufficient number to satisfy me that they were a fair representative of value; examinations were made by Mr. Thompson, though I made comparisons and examinations myself.

For Detroit & Mackinac, I used 4.5 per cent. and 6 per cent.

I would regard the Detroit & Mackinac as allied to Pere Marquette. It is not possible to secure as full published reports here, as for the Ann Arbor or Pere Marquette; my study of the conditions of the road and investigation among New York business men led to the conclusion that this is a fair rate for the Detroit & Mackinac. The conclusion was mine.

I first went to New York. Talked the matter over with the ex-

pert accountant employed by the State, and he worked with a complete understanding as to the method of procedure and basis of judgment, and reported to me in detail, and the judgment is mine, on data brought to my notice. The rate is my judgment, influenced by the opinion of a Wall Street expert—Mr. Lisman, whose judgment was believed to be reliable. I have not accepted, without making the judgment our own, the advice of Mr. Lisman.

He was sworn in this case, but not interrogated on the subject of the Detroit & Mackinac property, and the information received from him is apart from the testimony, and all information influencing my judgment is not in writing.

In the Detroit & Mackinac, Mr. Thompson, after investigation, related the facts, and I made the rate.

In every case I made the rate, but before it was made, Mr. Thompson made as complete a report as he could on what he learned on his eastern trip. What the rate ought to be was discussed freely;

Mr. Thompson has been treated as competent to have an opinion, and his views have influenced my judgment; he has been more than an expert accountant.

I used the phrase that Mr. Thompson was competent to express an opinion, in connection with the interpretation of market quotations. The final result is based, in part, on the opinion of Mr. Thompson, as well as my own, resting on all information we could secure.

For the Duluth, South Shore & Atlantic, the rate of 5 per cent. for physical and 7 per cent. for non-physical was used. I used the average net earnings for five years, exclusive of taxes.

Average gross earnings for Michigan for 5 years were taken as \$2,133,229.25, being from reports to the railroad commissioner; accepting railroads' figures for apportionment of gross receipts and operating expenses.

Deducting the average operating expenses for 5 years, less taxes (\$1,314,135.14) and tax (\$57,728.00) leaves Michigan net earnings \$761,366.00; deducting from this an annuity of 5 per cent., on \$9,553,688.00 (Prof. Cooley's value stores and supplies) or \$283,682.00, leaves \$447,000.00, which, capitalized at 7 per cent., gives the non-physical value \$4,052,600.00.

In all cases I added the item cash and current assets to Mr. Cooley's valuation, and have taken track mileage figures rather than wheelage.

I do not with the Lake Shore, concur in the values fixed by the State board for 1902. I have no opinion because no figures were available.

A computation of the value of this property in Michigan, on the basis of reported earnings and expenses, does not give the State its proper share of value.

If I believed the reports, I could apply the rule mathematically.

820 For the Grand Rapids & Indiana system, I used 4½ per cent. for physical and 6 per cent. for non-physical. Quotations, with ratio of operating expenses, was basis for my judgment. Operating expenses were 70 to 72 per cent. before taxes paid; when I speak of operating ratio, I compute it before payment of taxes. Lowering the operating ratio has a tendency to raise the rate of capitalization.

A higher rate than 65 to 70 per cent., according to the character and density of traffic and condition of the road, would indicate that operating expenses covered improvements giving peculiar protection to those who receive interest and dividends, and adding to value of the securities. Except for new roads, peculiar conditions and traffic, where operating ratio exceeds 70 per cent., I assumed that operating expenses include permanent improvements. To classify roads, one first element taken into consideration, is the nature and density of traffic.

On the Duluth, South Shore & Atlantic, the probable operating ratio was 62 per cent. The Duluth, South Shore & Atlantic is allied to the Canadian Pacific. I infer they keep their accounts on English and not American theory, making operating expenses less. I acknowledge this by giving them a higher rate of capitalization than a quotation on bonds or securities would justify.

There is no mathematical basis for the weight given to these various considerations in fixing rate. The exercise of judgment has been systematic, and followed in definite order, so no elements would be overlooked.

For the Grand Trunk Western R'y, I used 4 per cent. on physical, and 6 per cent. on non-physical, considering it different from both the Michigan Central and Pere Marquette. The fact that the Grand Trunk is connected with an extended railroad system, outside the State, did not influence valuation. In 1900 I became satisfied that no value created by the operations of the Grand Trunk Western were carried into Canada.

821 The question does not arise with Indiana and Illinois, because the computation rests on reports covering Indiana and Illinois; assignment is made to Michigan on a track mileage basis. The amount of mileage outside of the State, as compared with amount in, justified ignoring an annuity to support the Chicago terminal. In the Ann Arbor the terminal is close to the State line; in the Grand Trunk only about 67 per cent. of the aggregate mileage is in Michigan.

The 4 per cent. resulted from a study of market quotations. In my mind the fact that the Grand Trunk is connected with lines outside of the State, did not influence the result of value. I may have erred in not taking that into consideration.

In using average market price for securities, the fact that the average price is influenced by the fact that the system in Michigan is connected with a larger system outside of the State, would have influence upon the value; from internal evidence of operations of

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property,—independent of market quotations, the same rates would not be indicated.

The importance of the meat and grain traffic of the Grand Trunk depends on its connections. The fact that property is part of a larger property is taken into consideration and reflected in the capacity of the property to earn. The fact that the Grand Trunk Western is connected with the Grand Trunk system outside of Michigan, has an influence on the extent of non-physical, through earning capacity, and the same is true with Michigan Central through increase of its earning capacity, by virtue of through traffic. The Michigan Central's connection with the New York Central, causes a lower rate of capitalization in this way; connections of a road which guarantee a large and permanent income influence the investor in its securities, lead him to pay more for them;—investors take these matters into consideration.

The influence on the value so far as it depends on connections, comes in, in earnings on which the rate is computed,—these connections influence rate capitalization, as earnings influence market quotation of securities. The dense traffic on Michigan Central main line, is in part secured on account of outside connections, and it is impossible to ignore that fact—it is one of the elements.

In estimating non-physical value, the extent, sources and probabilities of continuance of earnings involve considerations of connections.

The investor looks to the amount and permanency of earnings, rather than connections, and that is the important thing. We judge of it, in part, by the connections of the road and its past history,—through stability, of earnings. My valuation of the Michigan Central R. R. is influenced by the fact that it has contract relations with the New York Central.

In the Manistee & Northeastern, I used 5 per cent. on physical. The following table indicates the rates of capitalization used:

Road.	Physical per cent.	Non- physical per cent.	Record.
Michigan Central.....	3.5	5	3396
Pere Marquette.....	4.5	6	3396
Ann Arbor.....	4.25*	6	3608
Detroit & Mackinac.....	4.5	6	3610
Du'uth, South Shore & Atlantic.....	5	7	3615
Grand Rapids & Indiana.....	4.5	6	3620
Grand Trunk Western.....	4	6	3623
Manistee & Northeastern.....	5	8	3629
Minneapolis, St. Paul & Sault Ste. Marie.....	4.5	6	3629
Pontiac, Oxford & Northern.....	5	7	3629
Sault Ste. Marie Bridge Company.....	4	4	3629

* Five per cent. to support Toledo terminal.

I used 4 per cent. on both physical and non-physical for Soo Bridge Co., because the income is contractual, sure and not exposed to exigencies of business. Had income been exposed to competition, so that investors were exposed to risk, they would have been entitled on non-physical to a higher value.

The rate on physical is that shown for all similar properties, and the return investors insist on as net revenue for similar properties not well advertised.

I did not make the figures myself. I have relied for accuracy on the computations of Mr. Thompson; all were done by my direction in each case; the rates were first determined and the results are mathematical computations on those rates.

As to whether a computation made and abandoned and another rate used, I think that on Ann Arbor, I first made a rate of 4.5 per cent. instead of 4.25 as finally used. In trying to bring the properties on an equitable footing, compared with each other, I could not help glancing over various rates and seeing what the results would be. The properties have many different qualities, and that is one way of testing the relative importance of various elements entering into the problem. The Ann Arbor rate was modified on more careful study of the market quotations. After I had used 4.5 per cent., Mr. Thompson called attention to what I had temporarily overlooked, what average earnings were for the 7 millions of bonds of Ann Arbor, and after that I felt I could not use 4.5 per cent. on this road. My impression was, that the Ann Arbor R. R. was a property along with the Grand Rapids & Indiana and Pere Marquette, and for that reason I first took 4.5 and 6 per cent.

I had looked at Ann Arbor quotations before determining 4.5 per cent. I overlooked some, and on review found I had not taken the rate quotations indicated.

On Minneapolis, St. Paul and Sault Ste. Marie, I permitted the rate taken to be modified by a very low ratio of operating expenses. When I first considered it as operating at 49.5 per cent., I used 5 and 8 per cent., afterwards raised percentage to 60. This line is allied with the Canadian Pacific, and takes the latter's methods of keeping accounts. I reached the conclusion that actual operating expenses must be greater than reported, and reduced rate capitalization to 4 and 6 per cent., especially in view of the reports of amounts carried to surplus, which if the usual method of charging operating expenses had been used, would probably be put into operating expenses.

I judge of the method of bookkeeping and handling of accounts of the Minneapolis, St. Paul & Sault Ste. Marie line, from what I know of the difference of English and American systems of accounts and the supposition is borne out by an examination of the reports. The difference in operating expenses between this and other lines, is due partly to the character of traffic. I had before me, in fixing the first rate used on the Minneapolis, St. Paul & Sault Ste. Marie,

stock and bond quotations, and 5 per cent. fairly represented the average market price.

In adopting the first rate, I determined the net return to the investor, and adopted that as the rate, but (referring to testimony given when before on stand), I would not claim that quotations of particular securities should be final. In determining the Michigan Central rates, quotations on bonds of other properties, similarly situate were taken. That has been the method with other properties, and I did not rest my determination of the rate for this particular road entirely on quotations for this road, but for this class.

I don't remember any extended computations where, all securities of a road being considered, the rate is as high as 5 per cent.

Judged exclusively on market quotations, there were no railroads making up a class, to which the Minneapolis, St. Paul, & Sault Ste. Marie line should be assigned, when the rate of 5 per cent. for annuity on physical property was adopted. The final determination of the rate was not based on market quotations alone, *e. g.* Michigan Central rate as determined by quotations, was less than 3.5 per cent.—I took 3.5 per cent. I compared the Minneapolis, St. Paul & Sault Ste. Marie line with the Duluth, South Shore & Atlantic and Pere Marquette, though it is not entirely comparable with them.

825 I would class that property with the Pere Marquette, Duluth, South Shore & Atlantic and Grand Trunk Western, though I made modifications as I observed differences in property. I have endeavored to adopt rates of annuity and capitalization, which I considered a fair return on investments of these classes.

826 THOMAS L. GREENE, sworn as a witness for defendant.

Direct examination by Mr. TOWNSEND:

I reside in New York city. I am vice president and manager (since 1887) of the Audit Company of New York, an examining and investigating corporation which makes comparisons and reports on business situation, financial standing, assets and earnings of companies and individuals. I was previously an officer of the Manhattan Trust Co. of New York; editorial writer on financial and business subjects for the New York Evening Post for six years; was engaged for two years in preparation of statistics for the Northern Pacific; two years as secretary of the association of anthracite coal mining operators. I have for many years written for papers and periodicals on these subjects. I am the author of the well known work: "Corporation Finance" (1897, Putnam) "relates to all the theory and practice of financing corporations, the different kinds of bonds and stocks, and methods of arriving at assets and earnings on which such financing could be based." The information in the book all obtained from first sources. I was brought up in the railroad business; was district agent of the West Shore railroad. I

have been employed in many cases in negotiations with railroads regarding questions of rate classification. I have been connected with investigations of the various questions concerning and for different railroads; for example, the Sandusky, Mansfield & Newark (now part of the Baltimore & Ohio) when the Baltimore & Ohio wished to absorb that road, was reported as showing a deficit under fixed charges. The bondholder's protective committee employed me to investigate and I found that a proper system of book-keeping would turn the deficit into a surplus. I have had occasion to examine into plans of organization of several railroad companies.

I have had considerable experience in judging of and investigating intangible values, principally for industrial corporations.

In my investigation of the Sandusky, Mansfield & Newark, (part of the Baltimore & Ohio) the reason was to show the relation between the branch and main line to determine the proportion of total earnings and expenses properly to be credited to the branch.

From my experience and investigations, it is proper, in my opinion, to allow branch roads constructive mileage, *i. e.* a larger proportion to the branch.

It is the custom of all railroads where the fairness of branch line earnings is a question, to allow the branch (or independent line) more than its mileage proportion, *e. g.* on the Sandusky, Mansfield & Newark (distance Newark to Mt. Vernon, 25 miles,) previous to our investigation, on all freight hauled to or from East, if hauled on main line 1,000 miles, (total distance 1,025 miles) The Sandusky, Mansfield & Newark was allowed 25/1025 of earnings. We reported a constructive mileage of 50 instead of 25 miles. For Mansfield, (66 miles from Newark) we reported they be allowed 150 instead of 66 miles.

This question has been investigated by congressional and legislative committees which, in reports, have approved system of constructive mileage—to branch lines.

A. In 1887 Congress appointed a Pacific Railway committee—

Mr. BLAIR (interrupting). It appears that he is not reading from the book.

Mr. BUTTERFIELD: He has closed the book since the objection was made.

Q. (continuing.) Who were asked to investigate the whole question of the Union Pacific railway in its relation to the Government as a creditor. Among other subjects treated in that report is the method of taking from the main line of the Union Pacific earnings and giving them to the branches under a constructive mileage system of accounting. The committee reported that the advantage to the main line of the increased traffic and the long haul was such that it was none too much for the main line to pay to the branch lines for gathering that traffic which the main line could handle thereafter so economically.

About the year 1885, the Illinois legislature appointed a com-

mittee to investigate the practice of the Illinois Central railroad in allowing constructive mileage to the branches of that road, with a view to ascertaining whether the State of Illinois was injured thereby because the State was entitled to 7 per cent. of the gross earnings of the Illinois Central railroad.

The question was whether the State was deprived of a certain amount of tax money under that system, and the committee reported that the system was just and proper and that the revenues of the main line were increased instead of decreased by that policy.

Mr. POND: I move to strike out what the witness has said in answer to the last and the immediate previous question, and especially to that portion of this answer which gives the details of the work done by the witness in these various things, mentioning the result of the report which they made, or which he made, on the ground that it was incompetent and irrelevant.

Mr. ANGELL: And I should like to add further to his statement of what appeared by reports of congressional and Illinois legislative committees.

Q. Did you investigate those cases yourself?

A. Only the public documents.

829 Q. Did those reports any of them contain statements of evidence in the cases taken before the committee?

A. My impression is they did, but I would not be positive about it.

From my business experience I can say that the application of constructive mileage to the earnings and expenses between branch and main lines is certainly proper.

I have had occasion to examine into the plans of re-organization of railway companies. The question, on re-organization, of the treatment of bonds of branch lines depends to an extent on the fairness with which earnings of those branches had been stated.

All items of general expenses should not be apportioned in same way, *e. g.* in case mentioned (the Sandusky, Mansfield & Newark railroad) we found the expenses of the soliciting and advertising department of the Baltimore & Ohio, were pro rated over this road—only a small portion could properly be charged to the branch. This is a general principle. The same is true on this and other roads, of unusual expenses which do not concern the branch.

There exists in corporate properties (railroads particularly) an intangible value, recognized as important, attached to general corporate value.

The real property values of the company should be taken and the differences between returns on that and the railroad's general earnings would be intangible value. That is in strict accord with the plan of financing and re-organizing companies and borrowing money upon them.

830 The consensus of opinion is that an average of net earnings is fairer than those of the particular year in which the value is sought.

In my own opinion a series of years should be taken as there might be exceptional circumstances in one year making it unfair to the railroad.

Five years previous to 1902 would be fair average for ascertaining the intangible value of Michigan railroads. In the Pere Marquette (in existence 3 years prior to 1902) that period would be fair. There is ample precedent for taking less than five years, where there are strong reasons.

Do you want an illustration? The American Beet Sugar Company was formed on a statement of earnings for two years on the express ground that it was a new industry in this country and to go back for the earnings during the mere experimental period would not be a criterion of the earning capacity, and it was admitted by financial people that that was correct and only two years were taken.

The property of these concerns consists in real—tangible—property, and another class of property such as rights under patents, trade marks, contracts. When I have used word "property" I mean real—tangible—property, anything that can be handled.

It is perfectly possible to value a railroad's property by market quotations of stocks and bonds. As in other methods the circumstances must be taken into view and the plan used with judgment. It would be unfair to take into account cases where quotations are made for special purposes which have nothing to do with the actual value of the railroad as a whole. Northern Pacific, in May, 1902, sold at \$1,000.00, and it would be unfair to take that because it was a special circumstance.

831 A. I should say you ought to take an average. That question comes up in New York State under the provision of a statute which requires all trust companies and banking institutions to make a report as of the 31st of December including all stocks and securities which they own upon that day and it has happened that the quotations on the 31st of December were abnormal and it was provided by law—

Q. (Interrupting.) Could they be abnormally high?

A. I mean either too high or too low. It was provided by the legislature that a banking institution in New York could spread its quotations over a considerable time, that is the language of the statute, and the banking department construes that to mean six months, but certain counsel of the trust companies claim they would have a right if they chose to take an average for the whole preceding year.

Mr. POND: I move to strike out what the witness said in answer to the last question including the words "it was provided by the New York statutes" as incompetent and irrelevant.

A. (Continuing.) In my judgment it would not be necessary to consider stock quotations further than one year from the date of the levying of the tax.

The value does not depend on the number of shares sold, but on whether the quotations are normal. They might be normal for comparatively few shares, depending entirely on whether sales are genuine. The sales of Illinois Central which are not large, are taken to be the genuine opinion of investors on the value of the stock.

Witness identifies Commercial and Financial Chronicle and Poor's Manual as being recognized authoritative publications on quotations and statistics.

332 I am familiar with De Ghuee's bond values. It is a standard publication for ascertaining returns and present value of bonds at varying prices. I have made an investigation to ascertain the number of quotations necessary to determine the value of stocks and bonds, examining into sales and prices of shares of all railroads whose sales on the New York exchange in 1903 were over 1,000,000 shares (10 railroads). I have ascertained, for 1903, the number of shares sold, highest and lowest price quoted, dividend rate by company, return to shareholders on basis of lowest and highest points touched, price quotations on the same stocks, Jan. 30, 1904, and the approximate return to the shareholders thereon, based on the dividends of 1903.

The results, taking Jan. 30, 1904, as the price, (because about half way between highest and lowest in 1903) are—

Atchinson, common	5.7 per cent.
B. & O., common.....	4.7 per cent.
Canadian Pac.....	4.2 per cent.
C. M. & St. P., common.....	5.0 per cent.
Erie, 1st pref.....	5.0 per cent.
Louisville & Nashville.....	4.7 per cent.
Mo. Pac.....	5.3 per cent.
N. Y. C. & H. R. R.....	4.2 per cent.
Penn.....	5.0 per cent.
Union Pac.....	5.0 per cent.

For purpose of illustration I have added four companies whose shares sold were less than a million—

Ill. Cent.....	4.5 per cent.
C. & N. W.....	4.2 per cent.

To these I added, to complete the table, but not as a fair basis of comparison—

Lake Shore.....	2.5 per cent.
Mich. Cent.....	2.3 per cent.

My conclusion is that in roads of the class of these companies, shareholders are willing to receive rates, varying with money market, from 4 to 4½ per cent.

I did not consider the results for the Michigan Central and Lake Shore a fair indication of what investors are willing to receive on such securities. I think them too low. The amounts 4 and not more than 4½ per cent. should be used. In general, return to investors will not be more than that, and they are willing to accept it on the amount invested.

The 4 or 4½ per cent. would be the value of intangible property to the capitalists. I think Prof. Adams' rate too high. My figures would increase the property's taxable value.

The year 1903 saw in New York a money panic in which values fell to a greater extent than for many years before. I have put an extreme low and high price for 1903 in every case on my table. We might go back many years before we could find prices approaching the low prices of 1903. I have put this into a complete table, not with the idea that it is an average which the investor is willing to receive. I have taken an average between high and low as the fairest way, being the price quoted Jan. 30, 1904, when the stock exchange had recovered from the low prices of extreme money stringency.

The average of January 30, 1904, was below the average for 1902 and below the highest for 1903. It was proper in 1902 to capitalize at 4 or 4½ per cent. to determine the value of non-physical property. I think 4 per cent. nearer right.

In arriving at the total value of stocks and bonds we use market value always. When we speak of a return to investors, we mean upon the amount the investor pays for the bond or stock.

Special circumstances in regard to the minority stock outstanding on Michigan Central and Lake Shore make their quotations unreliable as a basis for estimation of what investors are willing to take.

Railroad debts are not all secured by bonds. Those not so secured may be called unfunded debt, though the term means money borrowed from banks and includes obligations owed, but not due, *e. g.*, material bought on 90 days.

834 Unfunded liabilities are often of considerable importance.

Cautious investors always look to the amount of a corporation's floating or unfunded indebtedness. Current liabilities take preference of stock, but usually come after bonds.

In some cases current liabilities have market value, though usually it is a question between the banker and the corporation.

The current liabilities of the Michigan Central in 1902 were worth par. I assume those of the Pere Marquette were worth par.

I think the plan of valuation of Prof. Adams is correct. It follows the best practice in financing companies in New York city.

I think, as a matter of fairness, that a single year ought not to be used, but, if used, do not consider it to be an "income tax."

Industries served do not contribute to a railroad's value in the sense that they become a part of its assets. The prosperity of all business works together for the good of all industries,—one is not an asset of — other.

One has enhanced value by reason of the other. A railroad is dependent upon the activities of people in the territory served, and they are dependent upon the railroad for transportation.

Railroad corporations to a large extent encourage and contribute to the creation of corporations and industries along their rights-of-way; many industrial departments to induce manufacturers to settle along their lines; the companies are interested in the success of these enterprises.

There should be a different rate of capitalization for railroad, street railway and industrial properties,—they occupy different positions in character of organization privileges and business,—which is reflected in stock market quotations where shares are sold to a sufficient degree to indicate public opinion, and the custom among banking houses who handle propositions is to differentiate in those cases.

Prof. Adams' statement to the effect, that profits of industrial business are temporary and that the forces of competition eventually reduced them to a normal amount (in that respect being different from the railroad company), is true. I can give you as an illustration a company with whose re-organization I was connected, namely the American Bicycle Company. That corporation was formed in 1898 and 1899 and took over all the factories which manufactured bicycles; they were at that time at the height of their prosperity, and the statements on which the company was capitalized showed profits varying from three to four millions, I think the smallest was three millions of dollars. I had occasion in the re-organization of the company a year ago to look into the matter and found their profits after the formation of the company had been \$800,000. There is a case where owing to the fad of the use of the bicycle large profits were made until it gradually sank to the position of a normal manufacturing business, which it is now. If the Michigan Central had been making the same earnings in 1898 that the American Bicycle Company made, allowing for the difference in the general prosperity of the times, they would probably *had* been earning approximately the same thing now instead of falling in the way the American Bicycle Company did. The same is true of many other instances.

836 Cross-examination by Mr. POND:

Intangible property is the earning capacity of a company outside of the return on and not including its assets. Tangible property consists of land, buildings, machinery, materials, supplies, manufactured products, etc.,—any value beyond these and a normal return upon them is intangible property. A proper return on Michigan Central intangible property is 4 and not exceeding 4½ per cent.

On this theory of intangible value there is no limit to the money the Michigan Central could receive and dispose of in payment of interest on indebtedness and dividends to stockholders. The valua-

tion is simply for taxation purposes, and does not affect the earnings of the road. I never knew this theory to be applied in valuing property for taxation.

Every theory of valuation, including the stock and bond method, should be applied with judgment. That theory is to be applied with modifying circumstances in view.

Net earnings can be literally and solely capitalized and the result acted upon, if judgment is used in the statement of net earnings and method of capitalization. I think capitalization of net earnings ought to spread over the earnings of five years. In this case I would not take into consideration the future. I think the five years in question would be fair to railroads as including two or three years where earnings — low.

If called upon to make a valuation for purpose of taxation, and included the year when No. Pac. went to \$1,000, I would not
837 take into consideration the stock selling for \$1,000. It would be unfair to capitalize the net earnings for prices quoted on Michigan Central stock. The capacity to earn is less variable, in railroads, than in some businesses.

I agree that intangible attaches to tangible property. I say attach, because of railroads having the same amount of physical property, some do not have earnings to create the intangible. The different classes of property are treated as separate entities in financial circles.

In some cases of re-organization, the intangible property is put above value of the common stock issued to represent it, and for this reason large corporations have failed.

With judgment, it is possible in every case to arrive at a value of intangible property that will not over-estimate. In capitalization, intangible property is not called water, but may prove to be such, when the intangible property is over-estimated.

In the case referred to where 6 per cent. was paid on preferred and 6 per cent. on common stock for 5 years, the methods are shown to be conservative. In that case the mortgage covered the physical property only. If it had been foreclosed and the physical property sold, the non-physical would have found nothing to attach to—that is in case of a stop-age. If the Michigan Central stops running there would be no intangible value. Investors in Michigan Central stocks and bonds are willing to take about $3\frac{1}{2}$ per cent.

According to quotation figures, stockholders would be willing to take 3 per cent. and less. I do not consider this a fair statement of the position of Michigan Central stockholders. The Michigan Central pays 4 per cent. on par, to stockholders, but the stock is sold at 130 and returns a trifle over 3 per cent. The low dividend bonds
838 are usually sold to bankers. Purchasers would not be willing to hold these bonds if after paying taxes they only got 2 per cent. I don't know of any taxes they pay. There is a nominal tax in New York, but they don't pay it. I don't think $1\frac{1}{2}$ per cent. a reasonable profit or income. Practically more is received

because taxation is escaped. The great mass of railroad bonds are held by charitable institutions paying no taxes. The investor is satisfied with $3\frac{1}{2}$ per cent.,—generally they are willing to receive $3\frac{1}{2}$ per cent. return on bonds without reference to taxes. The individuals do not figure the taxes.

I first heard of Prof. Adams' method of arriving at non-physical property from him two years ago and am very familiar with the theory in other matters. The non-physical elements of a railroad are the earning capacities outside of an absolute allowance for earnings of physical property.

Everything going into the question of earnings produces the intangible value. In one concern it is stated, "contracts, leases, trademarks, patents, processes, brands and kindred assets of an established business."

Prosperity is an element of non-physical value. A particular concern may be very prosperous under special circumstances, when its neighbors are not.

The non-physical property is not a myth, because it cannot always be accurately described in every detail. We see its effect. It cannot be said what proportion of non-physical property is due to a particular element. The tax upon it comes into existence, increases, decreases, and disappears with income.

Q. Why then isn't this tax to the extent that it is based upon non-physical property, in the nature of an income tax?

A. In the legal sense undoubtedly you mean by the question. I should say not. In an economic sense, the tax may be said to proceed after a fashion to be paid from income.

Q. What do you mean by saying, in a legal sense?

A. I mean in a specific sense.

Q. Suppose the law in this case especially authorized this method of getting at the property and levying the tax, it would still be in the nature of an income tax?

A. Economically speaking, yes sir.

Q. I mean under the law it would be in the nature of an income tax?

A. So far as I am able to judge of a legal subject, I should say not.

Q. Why not?

A. Because I think that it isn't, such as my understanding of the law is, but I am not a lawyer.

Q. The effect is exactly as if the tax was put upon the income?

A. To a certain extent. Any other tax is the same way. A tax on a house has to be paid by the owner from what he gets out of the house or some other source of income.

Q. The tax is levied in this case on account of income and not on account of value of physical property?

840 A. To the same extent that all taxes are; so I take it that all taxation in the long run is paid out of income.

Q. There is a difference between a tax that is an income tax that rests fully on the income and another kind of a tax?

A. Yes, sir.

Q. This tax, so far as it refers to non-physical property, you have already conceded, I think, is based upon income solely?

A. The value of the property—in valuing the property the income is taken into account, but it is not a tax on income in a legal sense, as I understand it; it is in an economic sense.

It is practicable to apply Adam's system to street railways or industrial companies.

Commercial forces do not diffuse earnings of railroads to the same extent as industrials, and they are not subject to competitive forces in the same degree as industrial earnings. This is taken into consideration by the investor (dealing in stocks of industrial companies) who demands a larger return than he does from a railroad.

So far as the plan is concerned it is just as practicable to include industrials as railroads in a system of this kind. If all were under the same system it would bring the different companies under the rule of the opinion of the community as to their merits, because their intangible property would be affected by opinions of investors as to income's permanency.

By Mr. BUTTERFIELD :

One reason Prof. Adams' system could not be applied to property of ordinary manufacturing company when it could to railroads is that commercial forces tend to diffuse the surplus earnings of manufacturing companies, but not those of railroad companies. The railroads are a class by themselves, by reason of the monopolistic elements in their business.

841 Competition, paralleling of railroads by electric lines; and, to a certain extent, the regulation of rates by law, the power to determine protection at crossings and highways, laws providing the number of men in charge of a train, are things which tend to diffuse the surplus earnings of a railroad company. I don't think they are as material as in a grocery store,—it is a question of degree. I first heard of Adams' system in detail in 1900 or 1901. The principles are the same as those described by Prof. Adams on the witness stand here.

The difference I think of is in allowance for taxes. In his first plan there was an arbitrary allowance for the effect of present taxes on future earnings.

Prof. Adams' computation in 1900 made allowance for increase of taxes. I disagreed with him in that, and still think the effect of increased taxes ought to be on the succeeding year, not 1902. In his present system he allows for taxes on a 5 year average, but does not deduct from net earnings sufficient to pay the taxes of the year in which the appraisal is made.

I can't describe Adams' system of 1901 in detail. In 1901 the item of operating expenses included taxes.

In the present system, from corporate surplus for (Michigan Central), after deducting operating expenses after taxes paid, he deducts $3\frac{1}{2}$ per cent. of the physical value and capitalizes the remainder at 5 per cent.; the physical and non-physical added give him the road's value. In 1904 no allowance is made for taxes resulting from the appraisal. Taxes were allowed for in year in which they were paid, not for the year in which they were laid. The value of the property was determined by reference to net income for the year laid. It is not customary in other cases to deduct taxes in the year in which laid.

I suppose in a general way the tax commissioners are
842 guided by the tax paid the previous year, but don't think the direct amount is taken into consideration. I don't know of any case where tax to be levied on a railroad company in a given year is determined to any degree by taxes paid the previous year. In a sense, in Adams' system, taxes for 5 years previous have an effect upon taxes to be paid in a given year.

"Q. And if the taxes were more than actually were paid before, the taxes this year would be less by reason of that?"

A. Certainly they would.

Q. Then isn't it fair in the application of a rule of this kind to allow the corporation, the extent of whose tax is to be determined by the taxes that have already been paid, to have sufficient of its revenue set aside to pay the taxes which are enforced by the application of that rule?

A. My general thought would be that it would follow the customs of the country, that that tax payable the next year should then be taken from the earnings of the company for that year in applying the tax.

Q. What do you mean by the custom of the country?

A. I mean that it is the custom of the railroads and the States throughout the country to levy the tax in one year and for the railroads to pay it the next.

Q. What has that to do with the question?

A. It has this; in this instance, if the taxes were levied in 1902 and paid in 1903, the amount of taxes so paid would have an immediate effect upon the earnings of the company for the year 1903, which we have not yet arrived at.

Q. But you say you know of no case in the custom of the country where the amount of the taxes to be paid is radically different, and isn't it fair before you capitalize the net corporate surplus for the purpose of determining how much the tax shall be in this year to permit the corporation to set aside money enough to pay the taxes which will be imposed by the application of that rule?

843 A. It is contrary to all my railroad experience.

Q. You never had any experience with such a case?

A. No, sir, but I have had railroad experience with taxes.

Q. But not with the application of any rule wherein the tax paid in a given year was directly influenced by the amount of taxes paid

in a previous year. So it don't make any difference whether you compute the taxes the previous year or the succeeding year, the taxes depend upon some other element. In this case, how can you say that this case is to be judged by any custom of the country which does not exist?

A. I don't consider that that is quite so. I should state the case a little differently. I should say that this was a method of arriving at the earnings of a company, and that the earnings of a company are to be determined by the actual amount of taxes paid in that particular year. I might say in one or two cases we have had that question up with some railroad company. I have in my office, on file, the statement of the railroad companies that the tax levied in one year was to be considered only as applying to the year in which they are paid, and not the year in which they are levied.

Q. That has no reference to the determination of the tax to be paid in the future, in any statement that you have ever heard of that kind?

A. Certainly not."

I don't think it business-like to deduct before capitalization the additional taxes the enforcement of the rule produces.

I am familiar with Union Traction Company, of Chicago. There are many reasons why every consideration should be allowed to the Union Traction Co. in the matter of capitalization. I take it that Judge Grosscup was influenced in the deduction taxes before capitalization partly by the situation of the company. I don't think it would be a fair rule to apply to the Michigan Central's property. The tax levied by Adams' rule of valuation is an income tax in an economic but not in a legal sense. By legal sense I mean an absolute tax on income. A tax determined wholly by income would be an income tax.

For every dollar of net corporate surplus discovered \$20 of non-physical value. If tax rate \$16.91 per thousand, for every \$20 of valuation company must pay 33 cents, or 33 cents on every dollar of net corporate surplus found in the method pointed out.

I don't think to that extent it is an income tax. The rule separates valuation into two items, physical and non-physical. The two are added and taxed, through the property. It is not an income tax, because it is arrived at through a property value. The value of other property is determined in the long run by income.

The tax on this hotel comes out of income, but that don't mean precisely that it can be determined by reference to net corporate income.

The non-physical elements of one combination are given as "good-will, contracts, leases, trade marks, patents, processes, brands and kindred assets of an established business." There are other elements of good-will. Referring to Harper Pub. Co. I said if the mortgage on physical property was foreclosed the non-physical would disappear. Those elements enumerated would not be worth anything unless gathered together and used as the organization of a going concern.

A man could own a patent or secret process who did not own any physical property, and transfer those without reference to physical property. The elements read could exist independent of organization. The brands would be worthless unless a going concern had possession.

845 The individual brands could be transferred, but the common stock of the concern would be worthless. It depends on the organization of a going concern.

The elements from the document would not disappear on foreclosure of the physical property, but would become practically worthless. There are elements of non-physical value different from those referred to. Every business has its peculiarity.

Elements of non-physical value consist of those read and all other matters not physical which affect the corporation's earnings, *e. g.*, reputation, perfection of organization. The elements read do and do not attach to physical property. They can be sold, but their value, if sold to different people, would be largely dissipated. The perfection of organization and reputation attach to a concern as a going concern, and to physical property.

These would pass on a reorganization that was friendly, *e. g.*, if the physical property passed to a stranger they would not pass with it, but they are dependent on it.

The items, perfection of organization, reputation and fame due to advertising, could not be sold to an entirely different concern. Upon a transfer the three items could attach to other physical property, but would not. It is the experience of all business that where they are detached from the physical property they lose sometimes all, and always part of their value.

In the case of Harper Pub. Co., it would make no difference on the items mentioned what particular building or presses were used, or at what location operated. If some one by the name of Harper should purchase on mortgage foreclosure and move across the street these items would go with the stock. But they would not carry what we call "good-will." Non-physical value is based on a very large number of things.

(Witness illustrates the determination of intangible values in industrial corporations by references to specific cases.)

846 My experience with reference to valuation of railroad companies has not been wide except in re-organization. My experience of valuation of property for purpose of combination has been extended since 1897.

The $3\frac{1}{2}$ per cent. annuity in the Adams plan is to distinguish between the part of property subject to bonds or preferred stock in case of other companies, and that which is at hazard. The bonds are debts, and the stockholders are partners. It is interest on the original investment. The bonds and preferred stock should represent the tangible property, and no more, in ordinary cases. It is not an invariable rule to allow two miles for one in case of constructive

mileage. Each case depends upon its own circumstances. It might be more or less than two for one, or might be an arbitrary.

Over-valuations in combinations are more common with reference to non-physical than physical elements. In Adams' theory it is assumed that the net earnings are all the product of the taxable property, tangible and intangible.

It is assumed that all these elements, including services of employees, go to make up the net earnings. As a whole it is true that the labor of the employee has contributed to the company's income beyond the sum paid for his services. I do not know any reason why this should be deducted before capitalization. Mr. Bowers' argument is based on the supposition that it is wrong to allow a profit on employees.

We are valuing the taxable property by reference to the money derived from it. The services of employees are part of the organization. A portion of the corporation's net income results from the fact that the employee yields more to its income than has been paid him for his work. This came either from the tangible or intangible property. A portion of the intangible property is found in the muscle of the engineer or brain of the manager.

847 FREDERICK J. LISMAN, sworn as a witness for defendant.

Direct examination by Mr. WYKES:

I reside in New York city. I am a banker and broker. I make a specialty of dealing in railroad bonds, particularly uncurrent, meaning those not actively dealt in—the smaller issues.

I am a specialist; in fact, the principal market and dealer in all smaller issues of railroad bonds. If anyone in New York or other place wants a quotation or to buy or sell any of those issues, as a rule, they come first to my firm.

I am a member of the stock exchange. The Commercial and Financial Chronicle is an authoritative financial newspaper, looked up to for all information on financial subjects, especially the statistical quotation department. I furnish quotations for railroad bonds not regularly dealt in. A large amount of trading in bonds goes through my office every year, approximately 20 to 75 millions. I am familiar with the bond issues of the Michigan Central and Pere Marquette,—know all the issues and their value.

De Ghuee's bond values is an interest table, universally used, and regarded as correct in bond circles, showing the rate of return of bonds having different periods of time to run and different prices paid.

Witness testifies to the value of Michigan Central stocks and bonds April 14, 1902, as shown by the following table and notes thereto.

848 The unit in trade is 10 bonds, unless a different amount is mentioned. Guaranteed bonds are not legal investment for savings banks in many States where a direct bond is, which makes a difference in the rate of return. By term "and interest" I mean with accrued interest from last coupon date added to amount given.

(Witness places value on bonds of Pere Marquette as of second Monday of April, 1902 as follows :

Pere Marquette System.

Description of issue.	Rate.	Maturity.	Outstanding April, 1900.	Value as given by Lisman. <i>g</i>	Record page.
<i>h</i> Flint & Pere Marquette.	6%	1920	\$4,000,000	<i>a</i> 123.5	3880
Flint & Pere Marquette.	4%	1920	1,000,000	96	"
<i>h</i> Flint & Pere Marquette.	5%	1939	2,850,000	<i>a</i> 113	"
<i>h</i> Flint & Pere Marquette. (Port Huron Div.)	5%	1939	3,500,000	<i>a</i> 113.5	"
Flint & Pere Marquette. (Toledo Div.)	5%	1937	400,000	107.5	"
<i>h</i> Chicago & West Michigan.	5%	1921	5,758,600	<i>a</i> 109	3881
Chicago & West Michigan. (Coupon scrip.)	5%	<i>i</i>	56,510	par.	"
<i>h</i> Chicago & North Michigan.	5%	1931	1,667,000	<i>a</i> 109	"
<i>h</i> Detroit, Grand Rapids & Western. .	4%	1946	5,379,102	<i>a</i> par.	"
Grand Rapids Newaygo C. S.	7%	1905	19,000	<i>b</i> 107	"
Saginaw, Tuscola & Huron.	4%	1931	1,000,000	92.5	"
Pere Marquette.	5%	1951	3,200,000	<i>c</i> 90	"
P. M. Transportation Co. (Guaranteed P. M.)	6%	<i>j</i>	100,000	<i>d</i> par.	3882
Michigan Equipment Co.	6%	<i>k</i> 1902	157,000	par.	"
Western Equipment Co.	6%	1909	93,000	102.5	"
<i>e</i> Pere Marquette Equipment Co. . .	5%	1910	924,000	par.	"
Grand Rapids, Kalkaska & S. E.	5%	1927	200,000	102.5	"
Grand Rapids, Belding & Saginaw ..	5%	1921	<i>f</i> 260,000	102.5	"

a Sales on exchange.

b A 4.5% basis.

c Put out about April, 1902, supposed to be syndicated at 90 and interest, and offered at 95 and interest.

d A 6% basis, bonds secured on ships will not sell as readily as on railroad. (3882.)

e Drawable at par.

f So small an issue as never to command fair price.

g Interest to be added.

h Listed on Boston or New York stock exchange.

i Ten years from issue.

j \$20,000 annually.

k June 1.

I take a lower basis of return for Michigan Central than Pere Marquette, because the Michigan Central has better credit. The security and management is better, and permanency of property is greater.

For 1902 Michigan Central bonds sold on a 3.20 to 3.40% basis; the Pere Marquette is not as even.

Cross-examination by Mr. BUTTERFIELD:

The basis of return on Pere Marquette securities April 1902 was from 4 to 5%, varying in accordance with the particular security for a particular issue. The difference of basis on Michigan Central 3.20 to 3.40% is usually created by the premium; people do not discriminate between one security and the other, but the amount of premium of bond. On Pere Marquette they look to the security, fearing they may have to rely on it. The whole level of the bond market will not change as quickly as from month to month, and the rate of return depends upon the money market over a period of 3 to 6 months.

Where the rate of interest is high in New York, people insist on a little higher basis of return when they purchase railroad bonds, *e. g.* Michigan Central, 3½'s purchased by Morgan & Company for 104.5 and are now selling about 10 points lower; they are as good now as they were then; not today worth 1.04, unless you discriminate between "worth" and "value" and in our eyes a thing is not worth more than it brings in the market. The return to the investor at the figure at which it was purchased by Morgan & Co. (91.04) would be 3.35 per cent., at current price 3.75 per cent.

For Pere Marquette I computed different classes of bonds on different basis and on Michigan Central computed all direct bonds the same.

The market discriminates between guaranteed and direct bonds. In 1902 I computed direct bonds on from 3.30 to 3.40 per cent. basis, and guaranteed bonds—Battle Creek & Sturgis, 3's, on a trifle over 3.5 basis (long and therefore popular bond), while Joliet & Northern Indiana was computed on 4 per cent. basis (comparatively short bond).

Before determining the basis on which to compute different classes of bonds I must know the description, time to run, guaranty and nature of security; these must be considered in every case, being elements to fix price.

Before recommending a purchase of bonds, we would consider the question of management, derived from reports in general—general information from what we read and heard and sometimes on the ground. I don't think generally we come down to degree to which discipline is maintained among employees; we always study the extent of expenditure for maintenance of way and structures. A judgment as to value of security is influenced by finding expenditures for maintenance not up to what other roads are expending.

850 The Flint & Pere Marquette 6's, due 1902, \$4,000,000, which

I fixed at 123.5 listed on New York stock exchange and I based this figure on actual sales published in the Financial Chronicle or official list of the exchange. Wherever price is fixed on listed bonds I have based it on sales about that time.

I based the value of unlisted bonds mostly on comparison with similar issues of the same property, taking into consideration size of issue, rate per mile, etc. The Michigan Air Line is based on actual transaction. Its bonds are listed—the smaller issues of listed bonds are dealt in outside,—over the counter—more than in the stock exchange; we have had transactions in those. On bonds where there are no transactions, I based valuation of what they would bring without reference to actual transactions. It is my judgment of what they would be worth if sold, based on transactions, in those bonds, at different times; not at that time, but recent transactions in many of these bonds at various times. I have dealt in Kalamazoo & South Haven, Battle Creek & Sturgis, Joliet & Northern Indiana before, and possibly since that date, the price at which I dealt in Joliet & Northern Indiana was rather higher, because then they had longer to run.

On Battle Creek & Sturgis 3 per cents it was in neighborhood of .85. On unlisted bonds other than the 3 spoken of, I have simply given my opinion as an expert of what those bonds would be worth, based on such information as I have. In fixing the value of a similar road in California, I would be able to refer to something in my office that would be a guide; though I could not ascertain from it whether the road were well managed. The element of management then would not enter into it. I would not act without investigation of that subject. The uncertainty of management would be an element of the price. I would refresh my memory by looking it up in Poor's Manual or the Chronicle, and not knowing about the management would bid a low price, assuming management was bad.

The basis upon which various securities are computed, is determined by the rate of interest for money throughout the section of country where they buy bonds, meaning that Michigan

851 Central bonds are what we call legal, i. e. legal investment for saving banks. It depends on the rate of interest banks are satisfied with about that time, and that depends on the price at which they can buy other bonds that are "legal:" city bonds, money loaned on real estate. The basis involves all elements that make up rate of interest.

Rate of interest varies materially between cities; that does not affect price of bonds from day to day. The New York law names roads in whose bonds savings banks may invest; in Connecticut, the law is broader; in New York I think the act includes direct obligations of the Michigan Central.

Pere Marquette bonds are not "legal" for anything and have to take their chances on the open market, on the general repute in which the road stands.

I deal in guaranteed stocks of these roads. The guaranty of the Michigan Central or any Vanderbilt road sold in April 1902 on a 3.75 basis; in New York all stocks representing equities, are free of taxes and all bonds are taxable (except those held by banks); as a rule bonds very seldom pay taxes.

A person could afford to invest in bonds on a basis of 3.5 and pay taxes. In New York, taxation is 1.60 on personalty, the same as realty; in Maryland, on personalty .30; Pennsylvania, .40; Connecticut, .40. This variation makes a difference in the price of securities. An element of price is the popularity of a particular security in a particular State and we have in mind being able to sell in a State where popular. My *under* understanding is that the law means that only direct obligations are legal for savings banks. On Michigan Central, guaranties figured roughly on 3.75 basis.

If the Jackson, Lansing & Saginaw was not a guaranteed stock, I would compute value on a different basis of return, considering elements of what dividend it pays, how much more than dividend does it earn, how safe a return to purchaser, how permanent its business, is it likely to be paralleled and a thousand and one conditions.

852 Mr. WYKES: We object to all questions in regard to bonds and guaranteed stocks, and move to strike out all reference to the act.

If the branches of the Michigan Central had stock of their own not guaranteed by the Michigan Central and dividends were paid out of earnings, the basis of computing prices would depend on a greater variety of conditions and might vary on different branches. If the same rate of dividend was guaranteed they would sell at practically the same prices; I would consider each road separately, to reach a determination as to basis of return. Any 6 per cent. stock with 999 your lease would sell at the same price. Market quotations might fluctuate half a per cent., but the stocks would average, over a series of years about the same price.

Under objection of incompetent, immaterial and improper cross examination.

In computing on an independent road like the Manistee & Northwestern, I would have to figure on permanency of business, management and future as to whether likely to be independent or bought up; on this I would compute bonds at a lower rate than stock. There were actual transactions in Detroit & Mackinac—the first lien sells to pay a little over 4 per cent., the next, to pay 4.5 per cent.; I don't think preferred stock was paying any dividend, but was selling in the neighborhood of 70 with expectation of 5 per cent. dividend.

Assuming the dividend paid, that would be about 6.5 per cent. I computed Northwestern bonds in Michigan on the same basis as Michigan Central; its stock is dealt in on the stock exchange; consensus of opinion does the quoting here.

Redirect examination :

Regardless of the amount of dividends on each branch the sale at varying prices would bring the investor the same return approximately, as equalization and adjustment takes place in the premium.

A 10 per cent. stock would not sell to pay the investor quite
853 as good a return as a 4 per cent. stock. In April 1902, the market was fairly broad, and bonds could have been sold in greater volume and amounts at that time, depending on how judiciously offered.

Q. For Michigan Central as of second Monday of April, 1902, you have fixed the return as between 3.20 and 3.40. Can you give the average for the year beginning 6 months before and ending 6 months after that time?

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant.

A. The fluctuation was not wide, it was approximately the same, the market was steady and the return the same for some time, but the bond market commenced to go off in April 1902 and has been going off since. April was the average of the first 6 months; the second 6 months was lower—by 1 per cent.

For the fiscal year ending with August first figures would be about the same as the figures fixed. At the beginning of the fiscal year, prices may have been a trifle higher and at the end a trifle lower. It would average about the same on the Michigan Central. I would have fixed approximately the same basis of return for the Pere Marquette during that period, and also on the general market on all bonds, *i. e.* bonds held steady until summer of 1902.

A management known to be conservative and good, would influence me in fixing the basis of return, as would the management of the Michigan Central—as far as Michigan Central is concerned, it has such strong credit and high standing that it is accepted as A-1 in every respect.

Recross-examination :

The return insisted upon for 6 months prior to April would be about the same as that given; for 6 months afterwards it was higher. I am taking prices at which various listed issues sold. I can give
854 you the particular basis for each bond by figuring on the prices. A Grand River Valley bond at a premium having comparatively a short time to run, is not as desirable as a longer bond, and therefore will sell at price to pay higher return, than the 3.5's would.

"Q. Now suppose you were to understand that it has been said in the testimony in this case that the Michigan Central Railroad Company, for example, is entitled to receive a return upon its entire physical property valued upon an inventory made by an engineer

which involves a consideration of the cost of reproduction of the railroad as a whole, every inch of it in its present condition, depreciated to some extent in different parts of it, and you were called upon to give an opinion as an expert dealer in securities as to what rate of interest the company was entitled to receive upon its physical property, would you say that investors in the securities—in all the securities of the company, would be contented with $3\frac{1}{2}$ per cent. upon the value of the physical property as a return on the investment?

"Mr. WYKES: I object to the question as incompetent and as improper cross examination, being a matter not referred to in any way whatever in the direct."

A. Certainly not.

"Q. Then would you say that the rate of interest which investors in bonds of the classes you have described are contented with was a criterion of the rate which the company would be entitled to receive upon an investment in the physical property of the Michigan Central, as I have described it?"

"Mr. WYKES: I object to the question as incompetent and as improper cross examination, being a matter not referred to in any way whatever in the direct".

"A. No, sir. I certainly should think the company ought to get more.

Redirect examination:

"Now the last few questions that Mr. Butterfield asked you, were your answers to those question spradicated upon present conditions of the Michigan Central Railroad Company or upon a supposed case?"

A. I think I told Mr. Butterfield in answer to what interest they ought to get, etc. if the Michigan Central was not built that it was so largely hypothetical, it would be difficult to answer; but when he asked my opinion whether the company ought to be satisfied on its investment with a smaller return as some of the security holders or bond holders who are really artifically restrained are, I said I most emphatically thought they ought to get a better return. * * *

Q. For instance, we will suppose that they do actually receive in money 4 per cent. or actually receive in money the same rate that has been spoken of here today and in addition they received something that goes into betterments of the property, now you don't mean to say they are entitled to 4 per cent. or more in addition to what goes into the property?

A. Well I didn't understand the question in that way at all. I understood what rate of interest would they get, what per cent. upon their investment.

Q. You answered without regard to any investigation of what portion of the earnings goes into betterments and what not.

A. Yes sir. The only thing that I regarded was the rate of interest with which Mr. Butterfield compared it, which I understood was the rate of interest at which the bonds were sold."

"Mr. WYKES: I move to strike out all the answers relating to the rate of return to which the stockholders or owners of the road are entitled on the ground that the questions were not predicated upon the actual conditions, and also on the grounds mentioned in the objections made to the questions during the examination."

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CLARENCE H. WILDES, sworn as a witness for defendant.

Direct examination by Mr. WYKES:

I am 48 years old. I reside in New York city. I have been for 25 years a banker and broker in investments and securities, negotiating, buying and selling securities for individuals, estates and corporations. I am familiar with the securities of many railroads, including the Michigan Central Railroad Company.

I have dealt in those securities, purchasing Michigan Central stock in 1901 and '02. I can give the price approximately. I started as low as 120—117 in 1901 and continued to buy through 1903 up as high as 160. The average price paid was about \$145 a share. (Witness produces stock exchange record.)

In 100 share lots, the lowest in 1902 was 150, the highest 192. In 1901, the lowest 107.25, highest 180.

"Q. How many shares of the stock do you control at the present time?

A. Well, there is a distinction there. Somebody said we had a pool on the Michigan Central stock. That is not so; there is no pool to it. A pool implies speculation on the stock, and we have no stock for sale, and we do not propose to sell any; we simply bought for investment absolutely. I control just exactly my interest, which is with J. & W. Seligman Company, and that is all I control, and I have recommended the purchase of this stock to a great many people to the extent of over 3000 shares. That is all."

3000 shares and over were purchased on my recommendation. During 1902 the stock was bought at average of \$145 on my recommendation absolutely for purpose of investment. I considered the stock worth more than market price at that time.

"Q. What did you consider it worth in 1902, say in April?

A. On the basis of their reports and their present bonds and the amount which would come to the company from the premium secured on the sale of those bonds, I figured that the reduction

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in interest, and increase in the earnings as shown me by Mr. Cox, the treasurer of the road, would certainly enhance the value of the stock to a price commensurate with that of other roads

at that time, and the answer that I would make is that the stock would be worth at least \$200 a share.

Q. You are speaking of 1902?

A. I am.

Q. Now, those sales, or rather the purchase of which you speak, were *bona fide* purchases, not for the purpose of getting control?

A. Not at all.

Q. Nothing of that character?

A. No, sir. May I interject something there? I wish to state that any idea arising that I am seeking an ulterior motive for advancing the price of this stock, or in any way influencing the Michigan Central road to purchase stock from me, is absolutely an erroneous one, and any statement that there is any pool formed in the stock for exchange purposes is absolutely false. This last stock which I sold, some 1800 shares, was for absolute investment; it doesn't make any difference whether the market is at par or not; it will go to posterity, and the people interested in the stock are friends of Mr. Ledyard and in no way, shape or form do they wish to have him interfered with; they are interested in the development of that property through his capabilities. Mr Ledyard understands the value of the property as well as I do. He told me what the property was worth when I was in Detroit before refunding, and I do not care to say what he told me, but it led me to send a telegram here, basing the purchase made at that time upon it."

DeGhuee's Bond Values is recognized for determining the value of bonds on the basis of maturity, dates and rate of interest. 858 The Commercial and Financial Chronicle is the recognized authority on quotations of stocks and bond values. I think I was in Detroit and saw Mr. Ledyard in December, 1901.

Cross-examination by Mr. BUTTERFIELD:

I first purchased Michigan Central stock in 1901, around 120 or 121. It was bought for J. & W. Selligman Company, and I had an interest; the firm still holds 890 shares, in which I have one-tenth interest.

Q. Do you know what purpose J. & W. Selligman had in purchasing it?

A. It was just simply as they would buy anything else; it was in view of the refunding, and the increase in earnings, would enhance the value of the stock.

Q. It was a speculation?

A. No, sir; not necessarily a speculation.

Q. Wasn't it expected that the value of the stock was increased by the refunding and the reducing the fixed charges, and an increased earnings, and that there would be an increased sale for it?

A. It was absolutely a sale, yes, sir.

Q. If the market raised they expected to sell?

A. They might have. You wouldn't buy anything if you expected a loss."

J. & W. Selligman are bankers. At the time it was rather questioned, whether stock was purchased by them for purpose of permanent investment. We had a bid of 165 for our shares (about 2000), and declined it. Mr. Isaac Selligman suggested that the stock be divided among the partners, to hold for investment. It was not done; I objected. We preferred keeping the stock to taking 165. I was not a partner but simply had my interest. Some of it sold at a loss. Some was sold at about 165. Up to 3 weeks ago, we had

1,601 shares left, for which we had paid as high as 159, and
859 an average of 145. Last week I sold 600 shares at 132 or 133.

(Under objection of improper cross-examination.) I would advise customers to buy Michigan Central bonds at 3.75 per cent. basis. There is a market in New York, for securities considered sure to pay 3.75 per cent. There is no tax upon stock under the New York laws. The tax on bonds would be paid by the investor; the personal property rate in New York is about 1.46 per cent. on par.

Bonds are assessed at full market value; that would reduce the net return to holders to almost nothing. Of course they have offsets. No person could afford to invest in Michigan Central bonds at 4 per cent., if he expected to pay what the law imposed as a tax.

Holders of coupon bonds do not expect to pay the tax,—registered bonds are sold at 1.5 per cent. less than coupon bonds, because they can find out the owner. Investors buy Michigan Central, Lake Shore, or stock of that character, because there is no limit to the dividends they can pay, whereas, the interest on the bond is fixed.

"Q. If they were sure that there would be no increase in the dividend, and there was no element of speculation in it whatever, would they be willing to accept the same net return on the investment in stocks as on bonds?"

A. I should answer your question by waiting until we got to that bridge and see whether we are going to cross it or not. No man has a right to assure me they are not going to pay $4\frac{1}{2}$ per cent. on the Michigan Central."

It is inconceivable that stock of some corporations may never pay more than 4.5 per cent.—a change of management might make a difference. In every instance where an investment is made in stock, for investment purposes, the price is influenced by the hope of increased dividend. Investors in Michigan Central stock did not rely on my advice solely, but on statements of the Michigan Central road—what they see on the market about statements made by the road.

860 No information is conveyed to investors in Michigan Central stock, which does not appear in some report of the Michigan Central. Its report of expenditures for operating expenses, is not taken by investors to be a true statement of actual legitimate operating expenses. The item contains payment for permanent improvements.

"Q. It does not show in the report?

A. It shows that the road is being operated at the rate of three per cent., and that the permanent improvements which last for ten or fifteen years are being charged up for one year.

Q. Does it show that the permanent improvements are being charged to operating expenses?

A. No, sir.

Q. Or does it show the extent of it?

A. No, sir; and that is the trouble of it.

Q. How does the investor know how much of that thing is going on except you advise him on it?

A. I obtain it from the report.

Q. Don't you have any information except what you get from the report?

A. Absolutely none.

Q. And you could not give any except that?

A. No, sir.

Q. You don't know to what extent the permanent improvements are charged to operating expenses?

A. Not in dollars and cents. I only see the ratio of operating expenses to gross earnings, whether they are exorbitantly high or not.

Q. You judge of that condition by comparing that statement with the operating expenses shown by the statements of other railroads?

A. Very largely.

861 Q. And of other railroads which you think are in the same class?

A. Yes, sir.

Q. You assume, for example, if the Lake Shore can operate its railroad for seventy per cent. of its gross earnings, the Michigan Central should do the same?

A. Approximately.

Q. And any expenditures charged in excess of that is really a betterment or permanent improvement?

A. Yes, sir."

I recommend the purchase of the stock and give my judgment of its being a fair investment. Recommendation involves study of the management of the road, whether there are grades or obstacles like the Detroit river, which might have an influence to increase the operating expenses. I also consider the conversation with Mr. Ledyard on the matter, December 1st, when he said he proposed to make this road pay dividends later on of 6 per cent. and that he considered the stock worth \$200. I immediately telegraphed his statements to J. & W. Seligman & Co.

If it turned out that the Michigan Central continued to operate for 20 years without an increase in dividends, I should say they needed a change in management.

Q. Suppose for a period of 20 years in the past, when Michigan Central had been in what you thought good condition, with good management, and had not been able to get over 4 per cent., and had made every effort to discover the trouble, you would swear the stock was worth \$1.50?

A. I certainly would on the present statement.

Q. Take a railroad which for 20 years past paid 4 per cent., and so far as able to ascertain from books or investigation, there was nothing to give assurance of future increase, you would not think 145 a fair price for the stock?

Mr. WYKES: We object to the question as not predicated on facts in the case.

A. If it relates to a road outside of the Michigan Central, should say no.

Q. The point is, you were basing your proposition on what you think the company will do in future, not what it has done in past?

A. I am basing my proposition on this: We are minority stockholders, the effort of a railroad is to get in the minority stock. They don't as a rule, give minority stockholders what they are entitled to, and depreciate rather than appreciate value of stock. In Lake Shore, a large block of stock sold last summer to the Vanderbilts; after it was secured, the Lake Shore raised its dividends to 8 per cent., showing they had been gunning for the stock for a long time. The Michigan Central is going through the same operation, except that in this case, the people owning the stock are friendly to Mr. Ledyard; willing to take their chances under his management and will take his word that the stock is worth 200.

The Vanderbilts own about 19000 shares outstanding, the New York Central owns the eight, since 1898.

Redirect examination:

Stock was recently sold in Michigan Central for permanent investment. I would advise the purchase of bonds on 3.75 per cent. basis at present. The basis in the spring of 1902 was better. The Michigan Central sold its 3.5's at about 1.04, that is a 3.25 per cent. basis.

Recross-examination:

Morgan paid about 4 per cent. premium for the whole issue, offered them at 107, and sold during the panic at .98.

863

GEORGE F. LORD, sworn as a witness for defendant.

Direct examination by Mr. WYKES :

I am secretary of the Boston stock exchange. The actual sales of stocks and bonds, with the amount of share- of bonds sold, and the sale, bid and asked price, are reported officially by the exchange at the close of business on each day, being taken from the ticker by the printer, printed and furnished to the members of the stock exchange.

These books, marked "Stock Reports, 1901 and 1902," are the sales for two years, day by day, on the Boston stock exchange, and contain the sheets spoken of from January 1, 1901, to December 31, 1902, inclusive. The figures are regarded as authoritative by the trade generally, and by dealers in stocks and bonds, and are the information on which stock exchange transactions are usually based. (Books were marked Exs. 1 and 2, Mar. 16, 1904, and were introduced in evidence.)

Tradings of sales, or bid and asked price of Pere Marquette stocks and bonds, appear in Exhibits 1 and 2.

Cross-examination :

These exhibits contain all official sales reported by the ticker,— contain only what is done on the floor and reported. When a sale is made it is ticked off; the buyer and seller see it at once on the ticker, and at night it is tabulated; the buyer, seller and everybody has a chance to see it and they report to me any error or omission; any errors would be corrected the following day.

864

MELLVILLE W. THOMPSON, sworn as a witness for defendant.

Direct examination by Mr. WYKES :

I have examined Exhibits 1 and 2, March 16, 1904, (volumes containing quotations Boston stock exchange, Jan. 1, 1901, to Dec. 31, 1902, inc., introduced by the secretary of the Boston stock exchange) to obtain information in reference to the bid, asked and sale price and amount and volume of sales, of Pere Marquette stocks.

Q. Read, beginning with August 15, 1901, and extending for one year, ending August 14, 1902, everything indicating the bid asked and sale price of common and preferred stock, at the close of business on each day, also the number of shares sold and price at which sold during each day, of the Pere Marquette railroad company's stock, giving date.

Also, between the same dates, information indicating the volume

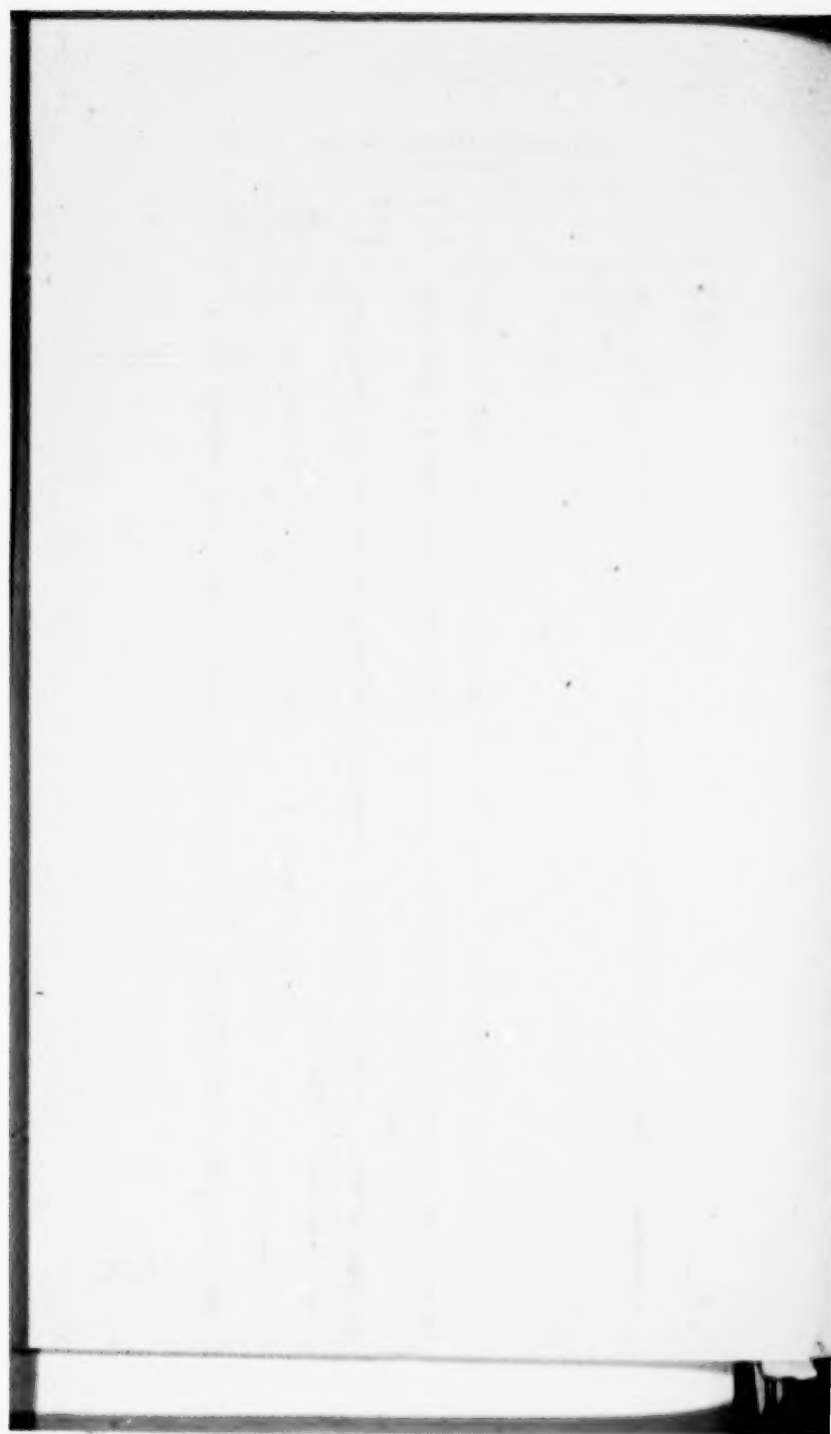
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and amount of bonds of the Pere Marquette and constituent companies sold and amount and price paid, giving in each instance dates.

Objected to as incompetent and irrelevant.

(Here follows list of bonds of Pere Marquette Railroad Company marked pages 865, 866, 867, 868, 869, 870, 871, and 872.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



873 McKILLVILLE W. THOMPSON, recalled as a witness for defendant testified as follows:—

Direct examination by Mr. BLAIR:

I was present when Prof. Adams described the three different plans for valuing property which he enumerated, one of them being the stock and bond plan. I have made a study of the subject of stocks and bonds of the Michigan Central, and Pere Marquette railroads. I have been engaged about 8 months in my investigations.

Q. What has been your method of investigation, what sources of information have you had access to and how have you used the sources of information at your disposal?

A. I have investigated the values of the bonds and stocks of these roads, principally through the medium of the published records of the transactions, such of the securities as are dealt in on the New York and Boston stock exchanges. I have obtained figures showing the results of transactions on the New York stock exchange from the Commercial and Financial Chronicle. Those on the Boston stock exchange from the Commercial and Financial Chronicle and from the daily sheets of the Boston stock exchange.

I have also obtained such other information as I could from other publications, publications of brokers and from inquiries
874 among bankers and brokers who make a business of dealing in these securities.

Q. Have you made any use of any official reports made by the railway companies mentioned?

A. Yes, sir.

Q. What reports?

A. I have made use of the reports of both of these roads to the State board of assessors of this State and to the railroad commissioner. Also, I have made some use of the reports of the Michigan Central railroad to the stockholders and of a contract existing between the Michigan Central railroad and Canada Southern railroad during the time in question and since then of the lease from the Canada Southern road to the Michigan Central.

Q. Were you present at the taking of the testimony of Mr. Lisman?

A. I was.

Q. And have you made use of the information given by Mr. Lisman in his testimony?

A. I have.

Q. Is the same true with reference to the testimony of Mr. Wildes?

A. It is.

Q. And you took I think some testimony in Boston but that was simply I believe to authenticate the reports.

A. So I understood, I also read into the record the result of the transactions at the Boston stock exchange.

Q. And you have also made use of that information?

A. I have. When I say the transaction on the Boston stock ex-

change, I mean the transaction on that exchange in securities of the Pere Marquette railway and its subsidiary roads.

Q. Now what was the object which you had in mind in making those investigations?

875 A. I was endeavoring to ascertain the market value of the securities of those roads and their subsidiary and component parts on the second Monday of April, 1902.

Q. Was that your final purpose or was that the means to an end. In other words, were you simply endeavoring to prove on the Pere Marquette or to ascertain the value of the property of the companies through the medium of the values of those securities?

Mr. BUTTERFIELD: That is objected to as incompetent and leading.

A. I was endeavoring to obtain the values of those securities for the purpose of obtaining from the collaborated results thereof the values of the properties of those roads.

Q. Have you made such valuations of the properties of the roads?

A. I have.

Q. Now without asking you any further specific question I will ask you to go on and detail the steps which you have pursued, and wherever proper the reasons to justify the steps taken where different courses might have been open, leading up to the final valuations of those properties.

A. I will first answer the question relating to the Pere Marquette road.

Mr. BUTTERFIELD: Note an objection to this question as incompetent and irrelevant, and I object to the testimony which is about to be given as incompetent and irrelevant.

A. I obtained from the reports of the Pere Marquette railroad and its subsidiary roads to the State board of assessors of this State descriptions of its liabilities and the amount thereof, and in the case of the bonds the rates of interest borne by the bonds and their dates of maturity. These bonds I have listed giving a description
876 of the issue, a notation of the rate of interest paid thereon and the maturity of the issue and the amount outstanding at par value. The amount outstanding appears to be from the report the same as the entire amount of issue except in the case of one issue a small portion of which is held in the treasury of the company, and I have listed the amount outstanding in that issue as the total amount authorized less the amount in the treasury.

I then proceeded to obtain all of the information obtainable from the sources above enumerated. First as to the values or prices at which actual transactions have been made in the open market on the floor of one of the stock exchanges in New York or in Boston, and I have obtained quotations upon six of the issues in question. I have examined the quotations on those issues particularly and in detail for a term of one year ending August 15th, 1902, being a

period extending four months after the date in question and eight months before.

Upon the **remaining bond issues** which are larger in number but smaller in total amount, I have been unable to find records of actual transactions on these stock exchanges but have obtained such information as I could from bankers and brokers dealing in these securities and other securities and were in a position to place values upon them.

I will enumerate in the order I have them listed the results obtained. The larger part of these issues are underlying bonds of the Pere Marquette railway, being bonds of the various roads that were absorbed into the system. The first is the Flint & Pere Marquette 6 per cent. bonds maturing October 1920, outstanding four millions dollars. I have examined the records of transactions in these bonds as shown by the Chronicle from 1890 down to August 15th, 1902, and the object of examining these records for such a time was to endeavor to ascertain whether the prices shown were normal. I

made a detailed record of the sales of those bonds for the year
877 ending August 15th, 1902 and I find that there was \$31,000 of these bonds traded in in New York at an average price of 123.07 and accrued interest.

I may state here that the custom of the New York stock exchange is to deal in bonds at flat prices. The meaning of that term being that the price quoted for the bond is the total of the price, of the principal for the accrued interest unpaid at the time of the sale, and for the purpose of eliminating the factor of accrued interest, which varied from month to month I have deducted the amount of accrued interest in each case on each transaction of the bonds on the New York stock exchange.

On the Boston stock exchange the custom is different, their dealings are for principal and accrued interest added to the price, the price makes no mention of the accrued interest that is paid, as it may figure up in addition to the price shown for the sale.

For the sake of avoiding a large number of small fractions in the case of bonds I have taken the first quarter for the fractional price and these bonds averaging from these sales 123.07 I valued at 123. At that valuation the bonds in question yield 4.20 per cent. to the investor, and the total market value of the issue is \$4,920,000.00.

There is an issue of bonds of the Flint & Pere Marquette Company covered by the same mortgage that secures the bonds last referred to. These bonds draw 4 per cent. interest and mature October 1920, and the same date is the maturity of the 6 per cents. just referred to. The amount of this issue outstanding at par is one million dollars. I have been able to find no transactions in these bonds on either stock exchange. I have made inquiry as to their value and I am told by dealers—

Mr. BUTTERFIELD (interrupting): I object to it as hearsay and incompetent.

878 A. (Continuing.) I am told by dealers in Boston that these bonds are worth par or possibly a slight premium, that their security is the same as that 6 per cent. bond referred to. The 6 per cent. bond sold on the market yielding the investor 4.20 but those are premium bonds, and these bonds being bonds of a less rate of interest will sell to yield the investor a slightly better rate.

Q. What is your opinion about that?

A. I think that is unquestionably the case, it seems to me a universal rule, and it is borne out by many quotations appearing on the stock exchange records. I found several publications of brokers dealing in bonds, I found one publication dated January 1902 which gives the market price of a large number of bonds of various railroads.

Q. Whose publication is it?

A. It is a little pamphlet gotten out by Lee, Higginson & Co. of Boston for circulation among their customers.

Q. And who are they?

A. They are bond and stock brokers in Boston and bankers. I have a similar pamphlet for January 1903.

Q. Do they list these particular issues?

A. Yes, sir; they list several of the issues of the Pere Marquette.

Q. Did Mr. Lisman testify in reference to these particular bonds?

A. He did. This pamphlet that I referred to dated January 1902 lists these bonds—

Mr. BUTTERFIELD (interrupting): I object to reading from the pamphlet as incompetent.

A. (Continuing.) At 102. It lists the bonds referred to and valued by me at 123 from the average price on the New York stock exchange at 123½. The following year, January 1st, 1903 it lists these bonds at 100.

879 Q. What did you understand with reference to that publication of Lee, Higginson & Company and listing those bonds at 103, did you understand whether that is the offer on the bonds or the price?

A. No, sir; I don't understand. This is the pamphlet they prepare for the use of their customers, they are very large dealers in bonds and have many customers who will sell bonds through them and they prepare these pamphlets for the information of their customers as being their judgment of the market values.

Mr. Lisman of F. J. Lisman & Company of New York, who was pointed out to me by a number of brokers in New York city as the recognized expert on values of unlisted and inactive securities appraised those bonds at 96 and interest, and I have taken this valuation of those bonds at 96. At 96, those bonds yield the investor 4.30 per cent., and the total market value of the issue was \$960,000."

The following table and the notes thereto shows the results of my

investigations with reference to the Pere Marquette stocks and bonds, the table showing both in the case of stocks and bonds the amount of each issue outstanding at par, the stock exchange transactions (average), the amount accepted by me as the value of the various securities, the value of the issue and the value of the sales during the year, and in the case of the bonds, also the date of the maturity of the respective issues, Lisman's valuation thereof, the value shown in Lee, Higginson pamphlet and the return to the investor.

Description.	Rate of interest.	Maturity.	Amount outstanding at par.	Stock exchange transactions. Average.	Lisman's value.	Lee Higginson pamphlet.	Accepted as value.	Value of issue.	Return to investor.	Volume of sales during year.
Bonds:	%									
Flint & Pere Marquette.....	6	Oct. 1920..	\$4,000,000	123.07	123.5	.....	123	\$4,920,000	4.20	\$31,000
Flint & Pere Marquette.....	4	Oct. 1920..	1,000,000	.....	6a	102	96	960,000	4.30	.....
Flint & Pere Marquette, con.	5	May 1939..	850,000	112.9	.....	.....	113	3,220,500	4.30	36,000
Flint & Pere Marquette, Port Huron division.	5	Apr. 1939..	325,000	113.33	.....	114	113.25	3,765,563	4.29	71,000
Flint & Pere Marquette, Toledo division.	5	July 1937..	400,000	.....	107.5	113a	107.5	430,000	4.55	.....
Chicago & West Michigan...	5	Dec. 1921..	5,751,000	109.30	109	109.5	109.25	6,290,615	4.30	272,000 +
Chicago & West Michigan, (coupon script).....	5	.....	56,510	.....	100	.....	100	56,510	.....	.....
Chicago & North Michigan..	5	May 1931..	1,667,000	109.225	109	109	109.25	1,821,198	4.45	45,000
Detroit, Grand Rapids & Western	4	Apr. 1946..	5,379,102	99.987	.....	100	100	5,379,102	4	222,500
Grand Rapids, Newaygo & Lake Shore	7	June 1905..	19,000	.....	107	.....	.....	20,330	4.50	.....
Saginaw, Tuscola & Huron...	4	Aug. 1931..	1,000,000	.....	92.5	98	92.5	925,000	4.45	.....
Pere Marquette	4	Jan. 1951..	3,200,000	.....	90	95	90	2,880,000	4.50	.....
Pere Marquette Transportation Company..	6	\$20,000 ann..	100,000	.....	100	.....	100	100,000	6b	.....
Michigan Equipment Company.....	6	Jan. 1902..	157,000	.....	100	.....	100	157,000	6c	.....
Western Equipment Company.....	6	Apr. 1909..	92,000	.....	102.5	.....	102.5	95,325	5.55	.....
Marquette Equipment Company.....	5	Oct. 1910..	924,000	.....	100d	100a	100	924,000	5	.....
Grand Rapids, Belding & Saginaw.....	5	Mar. 1924..	260,000	.....	102.5	107a	102.5	260,500	4.80	.....

Grand Rapids, Kalamazoo & Southeast.....	5	Apr. 1907..	200,000	.....	102.5	.....	102.5	.....	205,000	4.45	.....
Total.....			\$30,388,612						\$32,416,643		
Unfunded debt:											
From report to board of as- sessors <i>g</i>											
From examination of books.....			\$1,211,621								
Accrued interest on funded debt <i>h</i>			339,625								
			360,295								
Total unfunded debt.....			\$1,911,541						\$1,911,541		
Total debt.....			\$32,300,153						\$34,328,184		
Stocks:											
Preferred stock.....											shares.
Common stock.....			\$12,000,000			84.25			\$10,110,000		11,865
			16,000,000			80 $\frac{3}{4}$			12,860,000		33,364
Total debts and stock.....			\$60,300,153						\$57,298,184 ^e		

a Does not include accrued interest.

b Steamboat bonds, which brings lower prices than railroad bonds.

c Close to maturity.

d These bonds may be drawn at par, hence appraised at par.

e Deduct property not used for railroad purposes, per Walker,

\$730,000; per report, Exhibit 7, February 1904, page 34, \$121,570.71.

f See Lisman's testimony.

g Report to board of assessors, 1902, page 31—figures as of April 30.

h Report to board of assessors, 1902, page 59—figures as of April 30.

881 In obtaining the average price at which sales were made, the bonds in each transaction were multiplied by the price, the actual prices for the entire sale, so obtained, were totaled and divided by the par amount of bonds sold, thus giving greater weight to large than to small transactions.

The Pere Marquette report to the Michigan State board of assessors (1902) gives the unfunded debt as of April 14th, as \$1211621; I was told by the auditor, that these figures were as of April 30th.

Mr. BUTTERFIELD: I move to strike out statement of what the auditor told witness as incompetent and irrelevant.

(Under objection to statement of what witness found on examination of Pere Marquette books as incompetent.)

I found by their general ledger that in addition to the debts reported, (on page 31 just given,) they owed \$339625.

(Under objection of irrelevant.)

The books were examined pursuant to the agreement on the record in this case, that I should have the privilege of examining the Pere Marquette records to obtain information desired for use in this case, to save bringing into court all of their books and many of their clerks.

On the New York exchange, the record in the Financial Chronicle does not show the price at which each individual transaction was made; it shows the prices at which sales were made during each day, on which there were sales and the total volume during the week. I have taken the average price during the week, multiplied it by the total number of transactions in the same week obtaining the average price on the New York exchange.

I find the total value of all property of the Pere Marquette railroad in the judgment of the owners of its securities as shown by market dealings, to be \$57,298,184. To obtain the value for
882 railroad purposes, the value of property not used for railroad purposes must be deducted.

And the remainder was apportioned to Michigan by multiplying by 98.0667278 per cent. (being the percentage of track mileage in Michigan, as shown by report to board of assessors,) deducting track-age rights in the State, but including mileage of the Chicago & West Michigan of Indiana, out of the State.

I understood Mr. Lisman to give the issues upon which there were actual market transactions at prices shown by market transactions, and he stated that his judgment was that they were worth the market price, and that he did not assume to vary in appraisal from the market price, as he was obtaining it from the reports.

(Mr. BUTTERFIELD moves to strike out the comment with reference to Mr. Lisman's testimony, as it shows for itself what he said and what it means.)

Q. You may give now your computation with reference to the Michigan Central.

A. The Michigan Central presents a somewhat different problem from the Pere Marquette. The Pere Marquette is a single corporation and the various bond issues given are underlying bonds, all of which are assumed by the Pere Marquette railroad, at least all but one, and in one of them they guarantee the interest, one small issue of \$200,000.00; whether they guarantee the principal as well upon that I could not say. But the relationship between these subsidiary roads and the Pere Marquette is not one of lease or contract but they actually control the roads through ownership of their property, of the security. In the Michigan Central system there are in Michigan properties that the Michigan Central does not itself directly own but which it controls through lease; there are other properties in which it owns a majority of the capital stock but not any of the properties in which it owns all of the capital stock. There are also properties that are a part of the Michigan Central system in Michigan whose stocks are owned by the Canada Southern railway and whose bonds are owned by the Canada Southern railway, which railway also owns evidences of other debts against these roads.

A specific instance of the latter condition would be the Michigan, Midland & Canada all of whose stocks, debts and bonds are owned by the Canada Southern railway, and all of which Michigan Midland & Canada is in Canada.

A similar condition exists as to the Toledo, Canada Southern & Detroit Railway Company, except that a small portion of this road is not in Michigan. Whatever value there may be or is in the stocks and bonds of these various railroads last referred to—and some of them must have great value; is included within the value of the capital stock of the Michigan Central and Canada Southern roads, and to compute the value of this property I found it necessary to compute the value of all the outstanding securities of the entire system that are in the hands of the public. To explain the latter phrase, I mean in the hands of the public just the securities actually outstanding and not owned intercorporally. To do this I have made a sheet for the tabulation of all the securities outstanding as shown by the reports of the railroads where I could obtain such report, and where I could not obtain such reports through State officials I have obtained the figures shown in the Commercial & Financial Chronicle and Poor's Manual. I have arranged all of these issues in columns and in the first column, which I will refer to column 1 appears the total amount of the issue at par.

In column 2 appears the amount of such issue owned either by the Michigan Central railroad or by the Canada Southern railroad, at par.

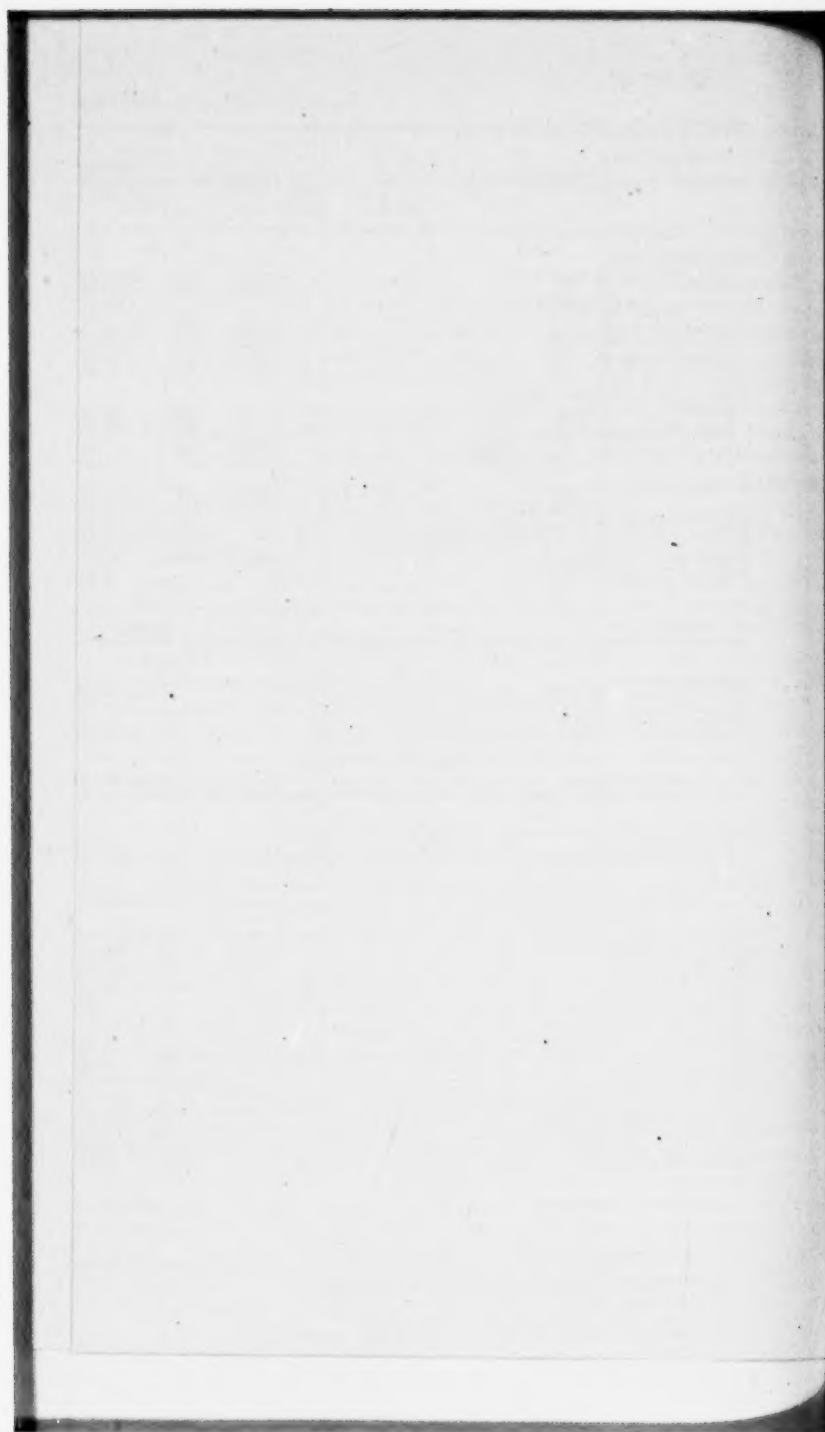
And in column 3 the difference between the figures shown in column 1 and column 2, being the remainder of amount outstanding in the hands of the general public, and by the general public I mean all the persons or corporations than the Michigan Central railroad and Canada Southern railroad.

To such remaining amounts outstanding in the hands of the public I have applied the market rates as I have learned them and computed the market valuation of the securities outstanding in the hands of the public.

The following table (including the notes thereto) shows the results of my investigation with reference to the stocks and bonds of the Michigan Central railroad, showing in the case of both stocks and bonds, the amount outstanding at par, the amount owned by the Michigan Central and Canada Southern at par, the amount in the hands of the general public at par, the stock exchange transactions (average), the value accepted by me, the market value of the amount in the hands of the public, the return to the investor in per cent, and the value of sales at par. And in the case of the bonds, the dates of maturity of the respective issues, and Lisman's valuation of the same where given, the latter relating also to certain stock issues guaranteed by the Michigan Central.

(Here follows list of stocks and bonds of the Michigan Central R. R. Co. marked page 885.)

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED



886 The Michigan Central bonds secured by mortgage on the main line due June 1, 1902, had but 15 days to run; there were considerable sales between Aug. 15, 1901, and May 1, 1902, at an average of 100.85, after deducting accrued interest; while they would have commanded a slight premium on April 15th, the time to run was so short I valued them at par.

The \$2,000,000 Michigan Central bonds, secured by the same mortgage and maturing at the same time, drawing 5 per cent., were valued at par. At that time, time money was worth about 5 per cent., and bonds having but few months to run ordinarily sell on a time basis. These bonds were refunded May 1, by two leases of 8 and 2 millions par at $3\frac{1}{2}$ per cent., due in 50 years.

The bonds were sold by the Michigan Central at 104.5, which would net investors 3.315 per cent. They were sold to a banking house. With the usual margin of profit, the ultimate buyer would receive less than 3.315 per cent.; if at an advance of 1 per cent., 3.275 per cent. If they were held by the banking house until a later time and sold at a loss, the loss would be the result of a change in the market.

The bonds secured on the Terminal railroad due July 1941, \$725,000 were never on the market. Mr. Lisman, stated he understood them all to be owned by one person, and while they were intrinsically of equal value with Air Line bonds, of the same rate, due about the same time, because they had never been offered, they would have a less market value, and he appraised them at 109, yielding the investor 3.53 per cent.

In the bonds secured on the Grand River Valley (due 1909, \$1500000), there was a transaction of \$600,000, one June 2, 1901, 119; two on June 7, 1901, for \$15,000, at 118.75; one April 19, 1901, of \$5,000, at 118.5. The accrued interest at time of sale would be 1.85 per cent., 1.62 per cent. and .82 per cent., leaving the net price with accrued interest added at 117.15, 117.13 and 117.58.

887 Had these bonds longer to run, they would presumably have sold for slightly higher prices in the spring of 1902, as the bond market was higher than at the dates given; Mr. Lisman appraised them at 116. These were high rate bonds, and would sell at a slightly less premium than low rate bonds as the purchaser at a premium has his premium returned to him, in small amounts, from year to year, in the form of a portion of the interest paid; they are therefore considered somewhat less desirable than bonds at a price near par.

I found a number of bid and asked prices on portions of the issues of bonds given, on which I found no transactions; comparing Mr. Lisman's value with a number of these, I found the bid and asked prices in a number of instances higher than Lisman's valuation. I have in all cases taken the lower valuation given by him.

Q. How did you figure this Canada Southern to make that return?

A. I figured that on the most favorable basis to the investor, that

is to say upon a $2\frac{1}{2}$ per cent. dividend rate. It is true that for 4 years they paid but 2 per cent. but during the fiscal year in which I have taken these valuations they paid on such part of the fiscal year as was the calendar year of 1901 but 2 per cent. and in the calendar year 1902, they paid $2\frac{1}{2}$ per cent. only, a part of which came into this fiscal year, but on the most favorable basis I have taken it and computed the return to the investor on the basis of $2\frac{1}{2}$ per cent. for an investment of $85\frac{1}{2}$. Did I take the average between 2 and $2\frac{1}{2}$ per cent. during the fiscal year the rate would be lower; that however, I have not computed.

Taking the Michigan Central stock at $161\frac{1}{2}$, the value of its debts and stock is \$95,019,656: at 200, is \$102,210,363.

888 The total value of the debts and stocks of these roads at market price is the equivalent of the market value of all the property of the system, and some of the property of the system consists of real estate and possibly other property not used for railroad purposes.

From the total arrived at by this process should be deducted the market value of such property; that being done the remainder would be the market value of all the property of the system used for railroad purposes. Having obtained such remainder a multiplication of that remainder by the percentage 68.5620 per cent. would give the value of the property in the State of Michigan computed on the track mileage basis and including in the total track mileage of the system 14 miles of track from Kensington to Chicago.

Q. Why did you multiply by 68 and a fraction—have you stated that?

A. The total mileage of the system including the 14 miles from Kensington to Chicago is 1,657.74 miles; the length of the portion of the road within Michigan is 1136.58 miles. These figures appear on the report of the Michigan Central railroad to the State board of assessors. These figures may be found on page 12 of such report, also upon page 17 and also upon page 73 of the same report of Defendant's Exhibit # 8, February 19, 1904. The division of the figures representing the mileage within Michigan by the figures representing the mileage in its entirety gives the figure of the percentage that the lines within Michigan bear to the entire lines, and that percentage is 68.56202, as above given.

890 Cross-examination by Mr. BUTTERFIELD:

My experience is of character to qualify me for my testimony. I was four or five years bookkeeper in a bank; subsequently a bookkeeper, then manager and secretary of National Wheel Company, Jackson; subsequently vice president and secretary (six or eight years) of Jackson Wheel Company; president of H. B. Clafflin Co. of Mississippi; have been interested in other corporations and co-partnerships. In the corporate positions held I have been active

manager and have given particular attention to the accounting department.

The National Wheel Co. was a corporation with a capital stock of \$45,000, owning real estate and having an unfunded debt.

The Jackson Wheel Co. had no real estate \$20,000 capital stock was paid in; personal property and nominal debts, if any. The value of its stock depends upon the result of impending litigation.

If the litigation of the Michigan Central affected its value, this was shown in market prices of the securities. I appraised the property of the Jackson Wheel Co. once a month for two or three years.

The appraisal would not include intangible values. I once appraised the property of a co-partnership (Clafin Co. manufacturers of wheel materials), for purpose of transforming it into a corporation. It possessed intangible property; being the value of the organization of the business as a going concern. The original cost of the property was twenty to thirty thousand dollars. The Jackson Wheel Co. and H. B. Clafin Co. are not now going concerns.

The period, over which market values of stocks, bonds and debts of the Michigan Central and Pere Marquette railroads were examined, was discussed with and influenced by Prof. Adams, Mr. Greene and others.

891 Mr. Greene stated that the custom in New York was to take an average for 6 months; Mr. Adams and I agreed that it would be more accurate to take results for one year. The adoption of a year was my opinion, corroborated by that of Prof. Adams and Mr. Greene.

I can not say that Messrs. Adams or Greene directed the method of ascertaining that market price during the year; I ascertained the facts from every source of information acting (without positive instruction) under the guidance of Mr. Adams and the attorney general; they instructed me to obtain the results of actual transfers, and where those could not be had, to obtain such information as possible from persons whose business led them to know such values; they did not point out the persons.

I never reached the conclusion that I had all the information obtainable. I obtained such as I could and have practically all information obtainable from the public records. The conclusion that I have obtained all I could is my own, assisted by counsel with bankers, brokers and dealers, who have directed me to sources of information. I found many things I didn't use.

I used information from the Financial Chronicle reports of the Boston stock exchange, Poor's Manual, De Ghuee's bond values and testimony of expert witnesses in New York, including the valuation fixed by F. J. Lisman.

By comparison of values obtained with actual transactions and published reports on other bonds I obtained what I think to be a relative value of every bond and find that Mr. Lisman in all instances placed a somewhat lower value; believing his to be conservative, I have taken that. On inquiry I find Mr. Lisman is a

recognized authority on such matters. While not competent to pass upon the value of any security standing by itself, by obtaining information I could form an opinion by comparison of one security with another; and could as an accountant, find and have
892 found the average price appearing from printed reports, which does not necessarily involve an opinion of the securities value. I found in many cases, records in the Chronicle of values on various of these securities though there were no records of transactions in them on the stock exchange; the Chronicle publishes one set of figures giving actual transactions, another which it states is believed to be reliable quotations on stocks and bonds.

Mr. Lisman furnishes the Chronicle many of these figures and is accepted as the most competent person to give them. Mr. Lisman impressed me as being extremely conservative; his figures (in testimony) in cases being below the prices given in one sheet of the Chronicle as quotations on inactive securities.

In cases they give similar results and in others higher. It is evident that Mr. Lisman in his testimony gave lower figures than he had furnished to the Chronicle; I think prices were not given to Chronicle with the same desire to be conservative and low. Mr. Lisman stated to me that he wished to be conservative and repeatedly said: "I am a director in a railroad in Michigan myself, and my tendency is to be conservative on Michigan valuations.

Every indication of the man, his manner and way of putting in his valuation, and his comments on them and a comparison of his prices with those made by Boston brokers, leads me to believe him very conservative. I have not used a portion of the Chronicle giving an opinion of the value of securities, but have used the information of Mr. Lisman.

Although convinced in instances that securities might reasonably have been valued higher, I have relied on Mr. Lisman's judgment. So far as unlisted and inactive securities are concerned my testimony rests for its accuracy on the opinion of Mr. Lisman. To obtain lists of securities, descriptions and amount outstanding, I resorted to publications referred to. For amount outstanding, Poor's Manual and the Chronicle.

On listed securities Mr. Lisman gave his opinion that the value was equal to the market price and give price current. I found
893 the average for year and the market price current April 14, 1902, very close, and have used average for year ending August 15, 1902; the use of this period was directed by Prof. Adams.

In my opinion it is a proper method. This date selected because of a desire to take one year's quotation and that was a period 4 months later after and 8 months before assessment date. I made computations of securities for other periods than this, *e. g.* found Canada Southern stock, April 14, selling at 88½; which influenced me to believe that the result of the year ending August 15, being but few points different from the price on that day, gave a fair ex-

position of the value of the stock on that day. I desired to find the market value of securities on April 14, 1902, so took transactions before, as well as after that date.

The transactions subsequent to April 14 have an influence on the computation and on value on the 14th. I didn't take the year ending April 14, 1903, as that would give a year entirely after, nor the year ending 6 months after April 14, 1902, as Mr. Adams directed me that the period in the past should have more influence than the period to come, that 4 months after and 8 before would be fair and reasonable and that was my opinion.

I cannot give the reasons influencing me to form this judgment. Had we taken the current year previous to April 14, 1902, that would have increased Pere Marquette values somewhat, and would have left Michigan Central near where they are.

I made no computation prior to the determination of the period to be taken; it is purely a matter of judgment that 8 months before and 4 after April 14 should be taken. A study of the general market condition, which we made before adopting the period, indicated that such period would give a fair valuation as of the spring of 1902.

The period was selected by Mr. Adams, and I cannot give the reasons that guided him. It appeared to me that an average taken entirely before April 14 might include conditions less typical of those of the date in question than if an average extending over a fair length of time after that date were taken.

894 I should consider normal any conditions that followed the general trend of the whole market. If the securities of a particular road seemed out of line with the general trend of the market, abnormal conditions might be discovered.

Q. If you were considering the stock of a corporation $\frac{1}{16}$ of which was, and for four or five years had been, owned by another corporation, so the market transactions were necessarily confined to sales of portions of $\frac{1}{16}$ of the stock, would you consider that the market condition shown by sales of that fraction of the stock, normal and should be used as a guide to valuation of the entire stock?

A. I think I would, unless I found indications that the policy of the corporation was such as to prevent transactions in the small minority stock from reaching their normal level.

Q. If in the same corporation, certain persons had made effort to accumulate the minority stock or portion outstanding in the hands of the public, on the theory that the company had not been paying in the past a dividend as large as it might pay, would you think that constituted an abnormal condition to detract from the reliability of market quotations as an evidence of value of all the stock?

A. Under those circumstances I think market quotations would be less than true value.

In Michigan Central stock I think the market quotations, on the minority stock were less than the stock's real value as a whole.

So far as information from public records is obtainable, the average of 161 $\frac{1}{2}$ was shown to be the market value of Michigan Central stock. From my study of the Michigan Central and its relation with other companies, my opinion is, were the purchasers of stock in position where they could obtain an equal voice in management, prices would go much higher; the average market price for the year does not represent the true value of Michigan Central stock.

It is possible for average market price to be greater than 895 the actual value of the stock. I have studied relations between the Michigan Central and Canada Southern and have discovered a contract between them. I have taken occasion to notice market quotations of Canada Southern within the last year; which are below the average for period in question. It averages 65 to 70 which I think is the real value of the stock. Canada Southern has not fallen off from the level of 1902 as much as some other stocks.

My testimony is of the cash value at the time. Relatively the cash value of stocks is less at present than it was; which would apply to a large number of the stocks testified to, though Pere Marquette common is now relatively higher. Transactions in Canada Southern were so large that I could not express an opinion that the cash value of the stock would vary from the market. I made comparative studies of sales of Canada Southern stock in a number of years, and am unable to see any striking departure between one year and another. For a number of years past, transactions in Canada Southern stocks have been large.

From the banking quotation supplement of the Chronicle for first week of 1904, transactions in Canada Southern stock 1903 were 47,580 shares, par value \$4758,000, price Jan. 2, 1903, 77 to 78; in December, 1903, low point was 65, high 68.5. During the period examined, sales in almost all railroad stocks traded in on the market were large, those of Canada Southern not larger in proportion than other active stocks.

If it were the fact that the Vanderbilt interests were attempting to secure a majority of Canada Southern stock, I should consider that an indication that the market price showed it was worth more money and so sold for more. Where some interest makes effort to acquire a majority of the stock of a corporation for purpose of control, I should say that was an evidence of the stock's value at that time, a normal condition and fair index of the stock's real value. I would not consider conditions of that kind as abnormal.

896 I remember the instance when Northern Pacific went to \$1,000 a share. It was due to effort to acquire control. I think if an average were taken for a year, the sale at a thousand would be so trivial in comparison that it would not affect the average perceptibly and would not include it in the average.

An illustration of abnormal price is in a railroad (Michigan Central) which for many years shows high earning capacity, the stock of which is almost all owned by one interest, and a change of manage-

ment changes dividends to a very low figure, which renders stock unattractive to investors generally for fear they may have to hold their stock an indefinite time before receiving what they deem a fair share of the profits of the road.

The average price there would not be a fair guide to the stock's true value, would be abnormal, meaning a repressed condition in which natural forces were not permitted to bring price to the normal.

I took average for one year but investigated Michigan Central conditions for 20 or 30 years. By comparison of conditions should judge prices of Michigan Central in the year investigated were abnormally low. My opinion is that the average obtained for the year ending Aug. 15, 1903, does not represent the true value of the stock. The detailed figures taken to determine the average market price of Michigan Central stock are (from Commercial and Financial Chronicle) as follows:

897	Period or date. <i>a</i>	Volume of shares sold.	Price.	
			High.	Low.
	1901.			
Oct. 28		116	116
Oct. 29		140	118
Oct. 30		138	138
Nov. 1		130	130
Week ending Nov. 1	1,300		
Nov. 2		128	128
Nov. 4		136	136
Nov. 6		<i>b</i> 138	<i>c</i> 130
Nov. 7		139.5	139.5
Nov. 8		<i>b</i> 140	<i>c</i> 130
Week ending Nov. 8	400		
Nov. 11 <i>d</i>		135	135
Week ending Nov. 15	10		
Nov. 20		140	140
Nov. 21 <i>d</i>		150	140
Week ending Nov. 22	867		
Nov. 23		170	170
Nov. 25		180	175
Week ending Nov. 29 <i>e</i>	300		
Dec. 4		170	170
Week ending Dec. 6	100		
Dec. 19		156	156
Week ending Dec. 20	100		
	1902.			
Jan. 17 <i>d</i>		160	156
Week ending Jan. 17	113		
Mar. 7 <i>d</i>		150	150
Week ending Mar. 7	25		
Mar. 8 <i>d</i>		150	150
Mar. 11 <i>d</i>		150.5	150
Mar. 14 <i>d</i>		150	150
Week ending Mar. 14	200		

Period or date, <i>a</i>	Volume of shares sold.	Price.	
		High.	Low.
Mar. 24		150	150
Week ending Mar. 28	100		
Mar. 31		150	150
April 1		150	150
April 3 <i>d</i>		155	152
April 4		155	152
Week ending April 4	1,012		
April 11		158.5	155
Week ending April 11	250		
April 14		160	159
April 17 <i>d</i>		160	160
Week ending April 18	425		
April 22 <i>d</i>		160	160
April 24		179.5	168
April 25		278	178
Week ending April 25	874		
April 26		178.75	175
April 28		185	179
April 29		192	185
April 30		187	186
Week ending May 2	2,020		
May 10		178	178
May 12		175	175
Week ending May 16	200		
May 26		175	175
Week ending May 30	100		
June 2 <i>d</i>		175	170
Week ending June 6	120		
June 20		175	173
Week ending June 20	400		
June 21		173½	173½
Week ending June 27	100		
Aug. 5		174.75	170
Week ending Aug. 5	1,700		

a Where no sales are shown none took place. *b* Asked. *c* Bid. *d* Includes a sale of less than 100 shares. *e* Bid and asked prices went as high as 200.

898 I am unable to state from the Financial Chronicle the number of different transactions and amount of each sale is not given.

That Michigan Central stock varied from 118 to 140 in one day looked to me as though somebody was getting on the fact that Michigan Central stock ought to be worth more than it had been selling for.

The information from the Chronicle was all I had. In each week I took all low and high prices at which sales were made and obtained the stated average for the week; multiplied that by the number of shares sold in that week; continued this from week to week; at the end divided the total of the figures so obtained by the multiplication just referred to, by the total number of shares traded in,

and that gave to each week its weight and to sales between dates in each week no weight was given, they were taken by stated average. Final result does not give the same weight to a sale of one share as of a thousand shares, each week is given due weight according to the number of sales.

Had it happened in the week ending Nov. 1, 1901, that there was one sale of 100 shares at the low price and another of 1200 at the high price, the average would have been the same as now; also if there had been sales of 1200 shares at a low price, and 100 at a high price.

An individual sale is not given due weight or lack of weight in the average. The market at this time was strong, and in an examination of sales, where there is a wide variance, a strong market almost always shows the greater bulk of sales made toward the top price.

In the final average I have given sales of each week proportionate weight on the assumption that all in the week were at the average of the week, ascertained in the method pointed out. Assuming that the average of sales was the stated average each week was given its due weight according to the number of shares. For a number of weeks the internal evidence makes it clear that the stated average for the week is the weighted average, so the proportion of occasions in which there is a variation from a mathematical average is small. I made no use of bid and asked prices where there were no sales.

Undoubtedly if the period averaged had been one year prior to April 14, the results would have been slightly different. The lowest price used was 116; after a period of 4 months when there had been no sales. The fact that there were no sales for three or four months prior to the year did not I think, come to our knowledge before the year was adopted. At this time I contemplated the valuation of all the stocks of Michigan railroads, and a general study was given to market conditions but not to those affecting particular roads.

From the Financial Chronicle it appears there were no sales of Michigan Central in 1901, previous to October, except March; low, 107.25; high, 107.25.

The quotations for 1900 by months are as follows:

	High.	Low.		High.	Low.
January.....	110	108	July.....	105	105
February.....	112	108	August*.....	.....	.....
March.....	108	108	September.....	112	105
April.....	109	109	October*.....	.....	.....
May.....	108	108	November.....	105.5	105.5
June.....	115	108	December.....	105	105

*No sales.

Quotations on Pere Marquette from the Chronicle for 1901 previous to October were as follows :

	High.	Low.		High.	Low.
January	43	33.75	May*		
February	65	41	June	75	53
March	61½	58.5	July	75	74.25
April			August	70.25	70.25

The Pere Marquette was formed and I believe went into the market in January 1900. Its quotations from the Chronicle for 1900 were :

1900	High.	Low.		High.	Low.
January	20.25	20	July	24.25	22.75
February*			August	23.5	22
March	29.25	21	September*		
April	26.75	23½	October	24	22.5
May	25.5	23½	November	32	27
June	25.25	23	December	35	31.5

When the fiscal year was adopted, it was intended to use it in making a stock and bond valuation of all Michigan railroads; a general examination of the trend of the market was made; some stocks were higher before and some after the middle of April, 1902, and a fair average period for the whole seemed to be the year ending August 15, 1902.

Q. For the period used, the market as a whole on Pere Marquette and Michigan Central was substantially higher than for the year and a half before, wasn't it?

A. Absolutely; yes, relatively, no, in the Michigan Central the latter part of the time; relatively; yes, in Pere Marquette for the first part of 1900—the corporation had just been formed and it was a new and untried stock on the market.

I included in the value of the Michigan Central property its unfunded or floating debt; the amount used is stated in the report to the board of assessors to be as of April 14, 1902, by Mr. Burt as of April 30, 1902; (figures taken from report to board of assessors, Exhibit 8, Feb. 19, 1904) The report states these figures to be the condition on the 30th of June 1902.

I am certain I didn't misunderstand Mr. Burt, he may have misunderstood me and been referring to material and supplies on hand. I have said the aggregate of liabilities was the value of the property and have treated the unfunded debt as an element of that value. In obtaining the total value of liabilities, I included all unfunded debt.

To the extent of increased indebtedness of the company the stock becomes less valuable. The fact that the Michigan Central owes money, I don't think has anything to do with the value of its property.

901 The amount of debts or fact of indebtedness has no direct relation to its property, but the total valuation of the liabilities of a corporation, is the estimate of those persons to whom liabilities were given as the total valuation of the property.

The debtor has recourse to the property of the corporation prior to the rights of stockholders. Therefore, the stockholders' estimate of the value of the stock, necessarily takes into account the existence of those debts prior to their own claims.

Other things being equal, as the floating debt increases the value of the stock would decrease providing the floating debt was not contracted in purchase of additional property, in which case the stocks' value would presumably remain unchanged. As a general proposition the amount of floating debt will affect the value of the stock of a corporation.

What the debt was incurred for might make some difference in the results as shown by the quotation; it would not affect the system of computation.

The primary purpose is to obtain the total market value of the liabilities of the corporation. The true value of all liabilities equals the true value of all of the property; I include all floating debts, regardless of its character or what contracted for.

If on April 14, 1902 the Michigan Central had a floating debt of a million dollars which was on April 14, 1903, increased to two millions, my valuation on the second date would be a million dollars more than on the day before, if conditions and market quotations on the other securities remained the same—I should assume that market valuations on the other securities took into consideration the fact of increase or possible or probable increase in floating debt.

Q. Suppose you decided to estimate the value of the property on April 14, 1903 by reference to the market for the year ending April 13, 1903, taking an average of quotations; that the floating debt remains at a million dollars throughout the entire period;
902 if it should happen that the floating debt increased a million dollars on the 14th, over what it was on the 13th, your valuation would be a million dollars more, by reason of that increase upon that day?

A. The average of quotations to that day would not be affected by the addition of a million dollars on that day, which would be a plain showing that you can take a number of quotations beyond that date with a view of reflecting the conditions which might have occurred about that date, which would not show in market quotations until later.

In the question above value on the 14th, would be one million dollars higher than on the 13th, by reason of the increase of unfunded debt; if it occurred in purchase of property that would be

worth a million more; if thrown away, the valuation would be a million dollars out of the way until stockholders found a million of their property was gone, when quotations would presumably fall.

If it were a judgment for damages, the stockholders would probably know of the existence of the lawsuit and discount the possible judgment.

Q. If on the 14th a judgment for a million dollars damages for a tort is enforced, then if the judgment had been discounted, you add a million dollars to the value of the property because of that million of debt?

A. And thereby give a true value, because if the judgment were not given as you state the discount you refer to in the price of the stock on the market would have undervalued the property. The valuation arrived at on the 13th would be the value of the property less the hazard of the impending judgment.

My theory would take into consideration quotations beyond the date.

If we only took quotations before the day on which the value was ascertained, the valuation would be a million dollars higher on the day after than the day before judgment was rendered. I endeavored

to get the floating debt on the 14th, but don't think that that
903 would vary much between the two dates. It was the opinion

of Prof. Adams and myself that the floating debt should be included,—it seemed to me a self-evident fact. Prof. Adams gave instructions to include it.

Q. Why isn't it sufficient to estimate the value of a property supporting a bonded debt by ascertaining its face?

A. The maturity of the debt is at a deferred time and such bonds as command a premium are obligations for a larger rate of interest than the market rate; by so much as the rate of interest is greater than the market rate, the bonds command a premium and earnings applicable to the benefit of its stockholders are reduced by the excessive rate of interest. To become absolute owner of all the property of the Michigan Central one must become the owner of its bonds, other debts and stock and the price at which he would have to purchase would be the cost of securing ownership of all the property.

The maximum payment the company will be called upon to make as the result of an issue of bonds is the principal and interest; the holder collects the face of the bond at maturity and interest and premium as he goes along; the premium is returned to him in the form of excessive interest; by so much premium as has been returned to him by excessive interest, the stock has been deprived of opportunity to participate in larger dividends and market value of the stock is depressed from what it would be had the bonds drawn a low enough rate of interest to be at par.

De Ghuee's Bond Value gives the rate of interest bonds will net to investors at various premiums, provided he holds the bond until maturity.

Q. That is different from a net return to the investor, if he holds the bond until some period before maturity and sells at the same premium at which he bought?

A. He would not presumably sell at the same premium, but would sell at one proportionate to that paid on par value at maturity.

904 A man might buy forty year bonds at a premium, hold them 10 years and sell them for as much or more than he paid; in that case the returns to the investor might be higher than the figure given in De Ghuee. In figures of net return to investor given, I have given De Ghuee every time; the net returns given in his figures are necessarily those investors in that class of security are content with on the market basis at the time. If the investor in a premium bond sells before maturity at the same price at which he bought, he gets a net return, according to De Ghuee plus the increase in price indicated by the same table at a later date; this would indicate an increase in the value of his property.

905 I included the \$14,000,000 Canada Southern bonds in my valuation at 105.25, the net return to investor being 4 per cent.

Q. In ascertaining the value of unlisted securities in which there were no market transactions, your plan is to arrive at it by a mathematical calculation based on the rate of net return you assume a proper one?

A. No, sir; that which in the opinion of the market in transactions of similar securities is shown to be their conception of the proper rate.

Due weight is given to the fact of there being no transactions in the market, as purchasers of such bonds might insist on obtaining them at a slightly lower price.

On guaranteed stocks, where no maturity figure, to find the rate of return to the investor, it is only necessary to divide the dividend rate by the price paid or divide par by the dividend rate—the interest rate satisfactory to the purchaser, to obtain the total price.

Market value of the stock may be influenced by a belief on the part of the investor that the dividend rate will be increased in future.

The market value of Michigan Central stock during the period studied was affected by the knowledge on the part of investors that the company could well afford to pay a higher dividend and a belief that it would some time do so. There was a rise in Michigan Central stock about the time it arranged for refunging its main line mortgage, which would reduce its interest charge \$310,000 a year,—an amount sufficient to raise the dividend rate by one half.

The case just referred to indicated a large surplus in the property or earning power of the Michigan Central.

Q. Should it turn out that for ten to twenty years in future the Michigan Central did not, and could not be compelled to pay
906 higher than four per cent. dividend, an investment in its stock would turn out a poor one, wouldn't it?

A. If people allowed themselves to be discouraged and threw their stock overboard at less than they believed it worth, they would be showing poor judgment and that would make it a poor investment. That condition has existed a good many years.

To secure 5 per cent. net return on the investment, investors in Michigan Central stock could afford to pay 80, assuming the dividend does not increase beyond 4 per cent. He may get a return in the enhanced amount of property he owns. If he holds for ten years and the dividend remains at 4 per cent. and he then sells, his net return would be less than 5 per cent. if he paid more than 80. The return on Canada Southern 5 per cent. bonds due 1908, at 105.25, is 4 per cent.

This is very near the figure in De Glue's tables and I used 4 per cent. because of that fact. The 4 per cent. is the net return upon such investment as remains outstanding to the investor year by year after reducing his original investment of 105.29 by an excessive interest returned to him each year in interest payment on the bond. A thousand dollar bond bought at 105.29, held for a year, and sold at 105.29 would net the investor 4 per cent. and eight dollars additional (the eight dollars may represent increase in value of bond during that time). The net return to the investor would be \$58, or about 4.75 per cent.

Different purchasers of bonds would be guided by their own conditions as to payment of taxes; some pay taxes on bonds and some do not. I think it a question of individual circumstances and that the grand average of all individual circumstances make a market. I assume market value to be the same in Michigan as in New York; impossible for it to be different; there would be no wider variation than the rate of exchange on money between Michigan and New York.

I think investors in this class of securities are content with 3½ to 3¾ per cent. I made no particular investigation of the question of taxation on those issues. I saw no materiality to it.

Whether the bonds spoken of are legal investment for savings banks, I think important in determining their value.

I understand the securities of the classes testified about were largely held by savings bankd. Should the court hold cash value to be the selling price at the place where situated, this would not necessitate an amendment of the plan of valuation on account of bonds and securities being subject to taxation in Michigan; if they became the ultimate property of New York savings banks, the only difference between Detroit and New York would be the exchange on money paid, which would be at a premium, rather than at a discount.

(MR. BUTTERFIELD: I move to strike out all the testimony of this witness on direct examination, in relation to values of stocks, bonds and floating debts of roads of Michigan, on the ground that the

witness has not shown himself competent to give an opinion on the subject.)

Redirect examination.

Purchase of premium bonds and their sale at the end of a year at the same price after collecting interest, might occur on a rising market for bonds, which would make bonds of the same class more valuable than the year before. As a rule, when a man buys those bonds, he expects to receive nothing except interest, and that by the time the bond matures, he will have received back the premium in the form of interest.

In the computations made and testified to by me, I have endeavored to follow the stock and bond plan outlined by Mr. Adams. I have been testifying as an accountant or computer in giving the results of transactions from such records and data as I could secure.

908 (Under objection of incompetent.)

I have made very careful investigation as far as I could do so during the time afforded. My employment in this case is as assistant to Prof. Adams.

909 M. W. THOMPSON recalled.

The figures appearing on Exhibit 1 (April 2, 1904), are correctly taken from the printed or public records or originals. I have performed the computations resulting in figures in this exhibit, which are correct.

The figures used in the stock and bond computation on the Pere Marquette system, were to August 15th, 1902.

(Under objection of incompetent and irrelevant.)

The quotations of stocks from the Commercial and Financial Chronicle, for next year, are:

Pere Marquette, Common.

	Low.	High.		Low.	High.
1902.			1903.		
August	78	79	April	78.5	87½
September	79.5	85.5	May	86.25	91.5
October	80	82.5	June	83.5	87
November	80	83	July	74	85.5
December	80	82.5	August	76	79½
1903.			September	75	77½
January	80	82	October	75	77.75
February	79	84½	November	75	81
March	76	82	December	80	84

Pere Marquette, preferred : 1902, September, low 85 ; high 93 ; November low 82.5.

Pere Marquette preferred stock is not much dealt in in New York; both preferred and common are dealt in more largely in Boston.

I made an average of New York transactions in Pere Marquette during the period of 1903, being 46,071 shares, at an average of 80,854. I compared prices in Boston, they run about the same.

909a M. W. THOMPSON, for defendant.

Direct examination—MR. TOWNSEND:

Referring to Ex. 8, Feb. 19, 1904, report of Michigan Central to State board of assessors for 1902,—and to Ex. 7, Feb. 19, 1904, report of Pere Marquette to State board of assessors for 1902, the witness testifies to, and makes apportionment of cash and supplies on hand, of date of April 30, 1902, as follows:

Name of company.	Apportionment track, miles.		Ratio.	Total cash and supplies, including credits.	Total cash and supplies, excluding credits.	Michigan proportion.
	Entire mileage.	Michigan mileage.				
Mich. Central*.....	1,643.74	1,136.51	69.045072 5	\$4,379,685 58		\$1,908,386 5
Mich. Central	1,643.74	1,136.51	69.045072 5		\$1,561,303 30	2,472,687 0
Pere Marq.....	1,820.22	1,785.04	98.060728 5	2,377,363 76		2,331,408 0
Pere Marq.....	1,820.22	1,785.04	98.060728 5		1,511,200 84	1,602,043 22

* Omits 14 miles Kensington to Chicago.

† Witness did not make computations excluding credits.

Aggregate mileage does not include 14 miles between Kensington and Chicago, as Mr. Burt informed me that company derives no net revenue from that portion of line.

The report of Pere Marquette to State board of assessors gives cash on hand is \$31,082.79. The correct amount as given to me by the assistant auditor is \$370,708.26, a deduction being made, before reporting of amount owed for labor. The larger amount was used (The information acquired by witness from assistant auditor Pen Marquette and auditor Michigan Central pursuant to understandings on record, (p. 1158, '9.)) I saw, the entry used, on the Pen Marquette books.

(The items from report objected to as incompetent and irrelevant.)

(Mr. Pond moves to strike out that part of witness' testimony referring to what he was told by Mr. Burt as incompetent.)

910 JAMES WALKER, recalled for defendant.

I am consulting engineer to the State board of assessors, and since October 24, 1900, have been engaged in valuing railroad property. I acted as an advisor to the State board of assessors in the first valuation of railroad property under act 173 of 1901. I studied and abstracted the information contained in the railroad companies'

reports to the board of assessors, the railroad commissioner, the Interstate Commerce Commission and to adjoining States, and presented the resolutions to the board in session. I was present at the sessions of the State board of assessors for value of railroad property, except the final two. My duties included advising the board in an expert capacity of the value of the railway properties under consideration.

I have since the first valuation made a careful and detailed valuation of the Pere Marquette, and Michigan Central properties, and my conclusions for April, 1902, upon such subsequent valuation are the same as the recommendations I made to the board. It is shown by the annual report that the board considered in its assessment all plans of valuation, the stock and bond inventory, and the capitalization of net earnings.

(Subject to objection of incompetent, irrelevant and leading.)

I followed in substance the same plan, my plan being based upon a consideration of all the elements surrounding the property. It is necessary to have knowledge of the physical condition to know the amount of its stocks and bonds and current liabilities; whether the latter item was small or large and of what it consisted; whether it was likely to be funded or refunded by the ordinary operation of the road; to know whether the interest and dividends had been paid on the securities; to examine the income account of the road and its operating account over a series of years; to know whether at the particular time of investigation the operation was the result of an extraordinary condition of the times or not; to examine the operating expenses with reference to the matter of inclusion of permanent improvements; to know in short, whether permanent improvements were being made on the property,—that is, extraordinary repairs and renewals; to see, if such permanent improvements had been made, to what account they had been carried, which in a measure would indicate the relative prosperity of the road with other roads; to note the cost of construction and present physical value of the physical properties; to know the traffic conditions under which the road operates and has operated in the past; its geographical relation to other properties, and finally from the result of all investigations with regard to the nature of the property, to arrive at an amount which would be the selling price of that property.

I mean that in order to value a railroad property you must consider every feature that surrounds it before you can definitely arrive at its value. I investigated and understood all these elements and conditions before reaching my final conclusion.

I first considered the report to the board of assessors, which states the value of the Michigan Central property including constituent lines, as \$27,602,000.

The company's report was admitted by its representatives, Mr. Butterfield and Mr. Russel, to be on a 75 percent. basis. Reducing

this to a 100 per cent. basis gives for the Michigan Central system \$36,802,666, and this figure conforms closely to Mr. Cooley's physical valuation of 1900. The Michigan Central Railroad Company paid as taxes on property not used in operation, the sum of \$12,395.96. The value of this property can be found and can be deducted by a capitalization of the tax.

The reports of the constituent companies of the Michigan Central from which the figures of value of property in the railroad
912 business are taken, used the description for the Michigan Central proper: "Right-of-way and structures situated thereon, and all other real property in use for railroad purposes, exclusive of station facilities." The reports of the subsidiary companies use in addition the phrase, "including station facilities."

The contention of the company on review was that the valuation should be reduced by local real estate not used for railroad purposes. If such contention be admitted, the tax capitalized at 16.55329, the tax rate, would equal \$748,853 and should be deducted.

For 1900, Mr. Cooley finds the cost of reproduction of the Michigan Central to be \$42,903,869, and the present value to be \$35,463,517. The \$36,802,666 reported by the company as the property's value is not more than the physical value, with allowance for changes between 1900 and 1902. From an examination of the reports making an allowance for the increased price of material and the conservative nature of the right-of-way valuation, I think the present value of the physical property in April, 1902, was considerably in excess of Mr. Cooley's 1900 valuation.

He found for 1902 a present physical value of \$43,151,815, on a track mileage apportionment, and \$42,502,843 on a car mileage apportionment. My estimate of the present physical value in 1902 for the use of the board of assessors, was \$41,500,000.

An objection here made to testimony of this character as incompetent and irrelevant.

From the reports of the railroad company to the railroad commissioner in 1900 and 1901, the cost of the Michigan property of the Michigan Central system to 1900 is stated as \$51,106,657, and to 1901, \$49,314,026.

The Defendant's Exhibit No. 8, Feb'y 19, 1904, being the
913 report to the board of assessors, page 37, shows the cost to June 30th, 1902, to be \$45,191,755. These figures shown in the book of accumulative cost, would be higher except that the company charges permanent improvements to operating expenses.

The average annual increase in the tonnage of the system for Michigan for 1897 to 1901 was about 12 per cent. The freight tonnage has a gradual increase from 1881 to 1901, from 4,196,896 to 11,026,766 tons, being over 150 per cent. The comparative tonnage for Michigan and the entire system, taken from the reports of the

company to the commissioner of railroads from 1897 to 1901, is as follows:

Year.	Entire system.	Michigan.
1897.....	7,627,176	6,035,627
1898.....	8,648,157	6,790,843
1899.....	10,018,043	8,134,871
1900.....	10,171,001	8,366,011
1901.....	11,026,766	8,905,454

The increase in mileage from 1896 to 1902, taken from the report to the Interstate Commerce Commission is from 1,608.27 to 1,657.74 in 1902.

(The witness produced a compilation of traffic statistics of the Michigan Central system from the reports of the commissioner of railroads from 1896 to 1901, the figures in which were by me correctly taken from the reports to the railroad commissioner, also percentage calculations indicating gains or losses. These are as follows:

EXHIBIT 2. March 28, 1904.
Michigan Central Traffic Statistics.
From Reports to Michigan Railroad Commissioner.

	1896.		1897.	
	Train Mileage.		Train Mileage.	
	Entire.	Michigan.	Entire.	Michigan.
Miles run by passenger trains during the year.....	4,237,946	2,610,057	4,179,934	2,477,329
Miles run by freight trains during the year.....	5,741,905	3,172,995	6,131,793	3,330,313
Miles run by mixed trains.....	507,507	355,813	497,798	342,302
Total mileage of trains earning revenue.....	10,487,358	6,138,865	10,809,525	6,149,944
	Passenger Traffic, Entire Lines.		Passenger Traffic, Michigan.	
	Numbers.	Miles.	Numbers.	Miles.
	Rate.	Rate.	Rate.	Rate.
Number of through passengers carried, earning revenue.....	220,467	.....	216,349	.....
Number of local passengers carried, earning revenue.....	2,343,592	.....	1,773,824	.....
Total passengers carried, earning revenue.....	2,465,059	.....	1,990,173	.....
Number of passengers carried one mile.....	156,317,124	.....	86,495,338	.....
Average distance carried.....	.....	60.96	.....	43.10
Average amount received from each passenger.....	.....	1.38	.....	\$1.02
Average receipts per mile for through passengers.....	.....	.020395	.....	.01584
Average receipts per mile for local passengers.....	.....	.024093	.....	.02886
Average receipts per passenger per mile for all passengers.....	.....	.022682	.....	.02732
Number of through passengers carried, earning revenue.....	220,474	.....	216,349	.....
Number of local passengers carried, earning revenue.....	1,880,400	.....	1,773,824	.....
Total passengers carried, earning revenue.....	2,100,874	.....	1,990,173	.....
Number of passengers carried one mile.....	90,541,682	.....	86,495,338	.....
Average distance carried.....	.....	43.10	.....	43.46
Average amount received from each passenger.....	.....	\$1.02	.....	\$1.01
Average receipts per mile for through passengers.....	.....	.01584	.....	.020775
Average receipts per mile for local passengers.....	.....	.02886	.....	.024462
Average receipts per passenger per mile for all passengers.....	.....	.02732	.....	.023229

	1898.	1899.
	Entire.	Michigan.
Miles run by passenger trains during the year	4,217,144	2,515,540
Miles run by freight trains during the year	6,548,049	3,577,890
Miles run by mixed trains	495,114	344,853
Total mileage of trains earning revenue	11,870,217	6,438,253

	Numbers.	Miles.	Rate.	Numbers.	Miles.	Rate.
Number of through passengers carried, earning revenue	212,729	.....	.....	245,833	.....	.....
Number of local passengers carried, earning revenue	2,387,303	.....	.....	2,632,175	.....	.....
Total passengers carried, earning revenue	2,600,032	.....	.....	2,878,175	.....	.....
Number of passengers carried one mile	144,505,752	.....	.....	165,057,169	.....	.....
Average distance carried	.....	55.58	.....	.....	57.35	.....
Average amount received from each passenger	.....	.....	\$1.237	.....	.....	\$1.251
Average receipts per mile for through passengers	.....	.....	.020679	.....	.....	.019727
Average receipts per mile for local passengers	.....	.....	.022903	.....	.....	.022744
Average receipts per mile per passenger for all passengers	.....	.....	.022250	.....	.....	.021818

	Numbers.	Miles.	Rate.	Numbers.	Miles.	Rate.
Number of through passengers carried, earning revenue	189,904	.....	.....	218,855	.....	.....
Number of local passengers carried, earning revenue	1,760,690	.....	.....	2,017,693	.....	.....
Total passengers carried, earning revenue	1,950,594	.....	.....	2,236,548	.....	.....
Number of passengers carried one mile	89,830,005	.....	.....	99,754,610	.....	.....
Average distance carried	.....	46.05	.....	.....	44.60	.....
Average amount received from each passenger	.....	.....	\$1.059	.....	.....	\$1.031
Average receipts per mile for through passengers	.....	.....	.020255	.....	.....	.022294
Average receipts per mile for local passengers	.....	.....	.024067	.....	.....	.023446
Average receipts per passenger per mile for all passengers	.....	.....	.022594	.....	.....	.023209

916

Train Mileage.

	1900.		1901.	
	Entire.	Michigan.	Entire.	Michigan.
Miles run by passenger trains during the year	4,299,212	2,513,572	4,684,913	2,664,368
Miles run by freight trains during the year	7,588,105	4,325,769	7,153,822	4,081,541
Miles run by mixed trains during the year	519,894	377,973	495,746	359,289
Total mileage of trains earning revenue	12,407,211	7,217,314	12,334,481	7,104,198

Passenger Traffic, Entire Lines.

	1900.		1901.	
	Numbers.	Rate.	Numbers.	Rate.
Number of through passengers carried, earning revenue	274,857	.....	320,469	.....
Number of local passengers carried, earning revenue	2,737,436	.....	3,079,606	.....
Total passengers carried, earning revenue	3,012,293	.....	3,400,075	.....
Number of passengers carried one mile	177,330,729	.....	228,293,565	.....
Average distance carried .....	.....	58.87	.....	67.14
Average amount received from each passenger .....	.....	1.291	.....	\$1.366
Average receipts per mile for through passengers .....	.....	.019748	.....	.018992
Average receipts per mile for local passengers .....	.....	.022941	.....	.021350
Average receipts per passenger per mile for all passengers .....	.....	.021935	.....	.020343

Passenger Traffic, Michigan.

	1900.		1901.	
	Numbers.	Rate.	Numbers.	Rate.
Number of through passengers carried, earning revenue	242,359	.....	320,255	.....
Number of local passengers carried, earning revenue	1,976,562	.....	2,330,664	.....
Total passengers carried, earning revenue	2,218,921	.....	2,650,919	.....
Number of passengers carried one mile	109,945,494	.....	120,572,226	.....
Average distance carried .....	.....	49.55	.....	45.48
Average amount received from each passenger .....	.....	\$1.112	.....	\$1.062
Average receipts per mile for through passengers .....	.....	.020118	.....	.018992
Average receipts per mile for local passengers .....	.....	.023881	.....	.025715
Average receipts per mile for all passengers .....	.....	.022711	.....	.023545

	1896.			Freight Traffic, Entire Lines.			Rate.
	Tons.	Miles.		Tons.	Miles.		
917							
Number of tons through freight carried earning revenue.....	1,823,439			1,879,938			
Local freight carried, earning revenue.....	5,452,831			5,747,238			
Total freight carried, earning revenue	7,276,270			7,627,176			
Total mileage of through freight.....		777,661,725				803,654,390	
Total mileage of local freight.....		702,589,796				729,951,677	
Total freight mileage, or tons carried one mile.....		1,480,251,521				1,533,606,067	
Average ton haul for through freight.....		426				427	
Average ton haul for local freight.....		129				127	
Average ton haul for all freight.....		199				201	
Average amount received for each ton haul.....							\$1.24
Average receipts ton per mile, for through freight.....							.00484
Average receipts ton per mile, for local freight.....							.00762
Average receipts ton per mile, for all freight.....							.00616
Through freight carried, earning revenue.....							
Local freight carried, earning revenue.....							
Total freight carried, earning revenue							
Total mileage of through freight.....		421,703,050				426,274,290	
Total mileage of local freight.....		247,517,340				259,983,540	
Total freight mileage, or tons carried one mile		669,220,390				686,257,830	
Average ton haul for through freight.....		148				147	
Average ton haul for local freight.....		86				83	
Average ton haul for all freight.....		117				114	
Average amount received for each ton haul.....							\$0.80
Average receipts ton per mile, for through freight.....							.00554
Average receipts ton per mile, for local freight.....							.00958
Average receipts ton per mile, for all freight.....							.00707

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	Freight Traffic, Entire Lines.			1899. Miles.	Rate.
	1898. Miles.	Tons.	Rate.		
Number of tons through freight carried, earning revenue.....	2,001,823	2,366,079			
Local freight carried, earning revenue.	6,646,334	7,631,964			
Total freight carried, earning revenue.....	8,648,157	10,018,043			
Total mileage of through freight.....	882,878,010			1,048,260,415	
Total mileage of local freight.....	782,280,068			902,353,972	
Total freight mileage or tons carried one mile.....	1,665,158,078			1,950,614,387	
Average ton haul for through freight.....	441			443	
Average ton haul for local freight.....	118			118	
Average ton haul for all freight.....	191			195	
Average amount received for each ton haul.....	\$1.15				\$1.10
Average receipts ton per mile, for through freight.....	.00463				.00420
Average receipts ton per mile, for local freight.....	.00728				.00713
Average receipts ton per mile, for all freight.....	.00597				.00562
Freight Traffic, Michigan.					
Through freight carried, earning revenue.....	3,167,958	3,944,221			
Local freight carried, earning revenue.....	3,622,885	4,190,650			
Total freight carried, earning revenue.	6,790,843	8,134,871			
Total mileage of through freight.....	484,586,590			589,913,758	
Total mileage of local freight.....	292,677,395			358,893,684	
Total freight mileage, or tons carried one mile.....	777,263,985			948,807,442	
Average ton haul for through freight.....	153			150	
Average ton haul for local freight.....	81			86	
Average ton haul for all freight.....	114			117	
Average amount received for each ton haul.....	\$0.81				\$0.78
Average receipts ton per mile, for through freight.....	.00545				.00491
Average receipts ton per mile, for local freight.....	.00948				.00926
Average receipts ton per mile for all freight.....	.00710				.00667

	Freight Traffic, Entire Lines.			1901. Miles.	Rate.
	1900. Miles.	Rate.	Tons.		
Number of tons through freight carried earning revenue.....	2,102,849	.....	2,427,803	.....	.....
Local freight carried, earning revenue.....	8,264,669	.....	8,598,963	.....	.....
Total freight carried, earning revenue.....	10,367,518	.....	11,026,766	.....	.....
Total mileage of through freight.....	970,265,390	.....	.....	1,090,269,805	.....
Total mileage of local freight.....	1,035,837,450	.....	.....	989,383,865	.....
Total freight mileage, or tons carried one mile.....	2,006,102,840	.....	.....	2,079,653,670	.....
Average ton haul for through freight.....	461	.....	.....	449	.....
Average ton haul for local freight.....	125	.....	.....	115	.....
Average ton haul for all freight.....	193	.....	.....	189	.....
Average amount received for each ton haul.....	.....	\$1.15	.....	.....	\$1.17
Average receipts ton per mile, for through freight.....	.....	.00437	.....	.....	.00471
Average receipts ton per mile, for local freight.....	.....	.00737	.....	.....	.00762
Average receipts ton per mile, for all freight.....	.....	.00592	.....	.....	.00618
Freight Traffic, Michigan.					
	Freight Traffic, Michigan.			Miles.	Rate.
	Miles.	Rate.	Tons.		
Through freight carried, earning revenue.....	3,770,895	.....	4,394,443	.....	.....
Local freight carried, earning revenue.....	4,595,116	.....	4,521,011	.....	.....
Total freight carried, earning revenue.....	8,366,011	.....	8,915,454	.....	.....
Total mileage of through freight.....	596,420,127	.....	.....	637,525,455	.....
Total mileage of local freight.....	376,430,222	.....	.....	404,204,016	.....
Total freight mileage, or tons carried one mile.....	972,850,349	.....	.....	1,041,729,471	.....
Average ton haul for through freight.....	158	.....	.....	145	.....
Average ton haul for local freight.....	82	.....	.....	89	.....
Average ton haul for all freight.....	116	.....	.....	117	.....
Average amount received for each ton haul.....	.....	\$0.81	.....	.....	\$0.83
Average receipts ton per mile for through freight.....	.....	.00549	.....	.....	.00551
Average receipts ton per mile for local freight.....0089900928
Average receipts ton per mile, for all freight.....0069700711

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Comparative Traffic Statistics.

Analysis Passenger Traffic.

Passenger train mileage, system :

The passenger train mileage of 1897 shows a loss, in comparison with 1896, of about 1.36 per cent. ; 1898, a gain over 1897 of 0.89 per cent. ; 1899, a loss from 1898 of about 2 per cent. ; 1900, a gain over 1899 of 4.05 per cent. ; a gain over 1900 of about 9 per cent., and 1901 shows a gain over 1896 of a little over 10½ per cent., or an average annual increase of about 2.1 per cent.

Passenger train mileage, Michigan :

1897 shows a loss, as compared with 1896, of about 5.08 per cent. ; 1898 a gain over 1897 of about 1.54 per cent. ; 1899, a loss from 1898 of about 1.73 per cent. ; 1900 shows a gain over 1899 of about 1.69 per cent. ; 1901, a gain over 1900 of about 6 per cent. ; and 1901, a gain over 1896 of 2.075 per cent., or an average annual increase of 0.415 per cent.

Freight train mileage, system :

The mileage of 1897 shows an increase over 1896 of about 6.08 per cent. ; 1898 a gain over 1897 of about 6.07 per cent. ; 1899, a gain over 1898 of 7.65 per cent. ; 1900 over 1899 of 7.65 per cent. ; 1901, a loss from 1901 of 5.73 per cent. ; while 1901 shows a gain over 1896 of 24.55 per cent., or an average annual increase of 4.91 per cent.

Freight train mileage, Michigan :

1897 shows an increase over 1896 of about 4.96 per cent. ; 1898, a gain over 1897 of 7.45 per cent. ; 1899, a gain over 1898 of about 12.75 per cent. ; 1900 over 1899 a gain of 7.20 per cent. ; 1901 shows a loss from 1900 of about 5.65 per cent. ; while 1901 shows a gain over 1896 of about 28.60 per cent., or an average annual increase of 5.72 per cent.

Mixed train mileage, system :

This mileage shows no important change from 1896 to 1901, being 507, 507 miles in 1896 and 495,746 miles in 1901, the largest variation being 1900, when 519,894 miles were made.

Mixed train mileage, Michigan :

This mileage shows no important changes from 1893 to 1901, being shown as 355,813 in the former, as against 359,289 in the latter, the largest variation being again in 1900, when 377,973 miles were made.

Total train mileage, system :

The mileage of 1897 shows an increase over 1896 of about 3.06 per cent.; 1898, a gain over 1897 of 4.16 per cent.; 1899, a gain over 1898 of 3.67 per cent.; 1900 over 1899 a gain of 6.28 per cent.; 1901 a loss from 1900 of 0.585 per cent.; while 1901 shows a gain over 1896 of 15 per cent., or an average annual increase of about 3 per cent.

Total train mileage, Michigan.

1897 shows a gain over 1896 of about 0.183 per cent.; 1898, a gain over 1897 of about 4.70 per cent.; 1899 over 1898 a gain of 6.53 per cent.; 1900 over 1899 a gain of 5.25 per cent.; 1901 shows a loss from 1900 of 1.58 per cent.; while 1901 shows a gain over 1896 of 13.6 per cent., or an average annual increase of 2.72 per cent.

Through passengers, system :

1897 shows a loss from 1896 of about 1.84 per cent.; 1898, a loss from 1897 of 1.71 per cent.; 1899, a gain over 1898 of 15.52 per cent.; 1900, a gain over 1899 of 11.80 per cent.; 1901, a gain over 1900 of 16.68 per cent.; while 1901 shows a gain over 1896 of 45.3 per cent., or an average annual increase of 9.06 per cent.

Local passenger, system :

1897 shows a loss, as compared with 1896, of 4.42 per cent.; 1898, a gain over 1897 of 6.59 per cent.; 1899, a gain over 1898 of 10.24 per cent.; 1900 a gain over 1899 of 4.0 per cent.; 1901, a gain over 1900 of 12.47 per cent.; 1901 a gain over 1896 of 31.5 per cent.; or an average annual increase of 6.30 per cent.

Total passenger, system :

1897 shows a loss, as compared with 1896, of 4.20 per cent.; 1898, a gain over 1897 of 5.83 per cent.; 1899, a gain over 1898 of 10.70 per cent.; 1900 over 1899, a gain of 4.64 per cent.; 1901, a gain over 1900 of 12.90 per cent.; while 1901 shows an increase over 1896 of 32.6 per cent.; or an average annual increase of 6.52 per cent.

Passenger mileage, system :

1897 shows a loss from 1896 of 1.22 per cent.; 1898, a loss from 1897 of 6.40 per cent.; 1899, a gain over 1898 of 14.26 per cent.; 1900 over 1899, a gain of 7.44 per cent.; 1901, a gain over 1900 of 28.72 per cent.; while 1901 shows a gain over 1896 of 46.2 per cent., or an average annual increase of 9.24 per cent.

Average passenger distance, system :

The following are the average distances for the years 1896 to 1901 inclusive: 60.96 miles; 26.87 miles; 55.58 miles, 57.85 miles;

58.85 miles. The increase of 1901 over 1896 is 6.18 miles, or 10.5 per cent. As an annual increase this averages 2.1 per cent.

Average passenger amount, system :

The amounts received from each passenger from 1896 to 1901 inclusive are as follows : \$1.38- \$1.37- \$1.237- \$1.251- \$1.201- 922 \$1.366. Attention is called to the fact that the average amount in 1901 is but \$1.05 per cent. less than in 1896, although this item shows a falling off in intermediate years. The point to be especially noted is that, while the amount for 1901 is but a little more than 1 per cent. less than in 1896, the total number of passengers had increased from 2,564,058 in 1896 to 3,400,075 in 1901.

Passenger receipts per mile, system :

This subject is noted in the foregoing tables under three heads, namely : Through passengers ; local passengers and all passengers.

The rates on through passengers, for the years shown are as follows : .020295- .020117- .020679- .019727- .019748 and .108296. This is a total loss in 1901 from 1896 of 9.85 per cent., or an average annual loss of 1.97 per cent. The number of through passengers, however, increased from 220,467 in 1896 to 320,469 in 1901.

The local passenger rates for each year were as follows : .024003- .022620- .022903- .022744- .022941- and .021350. This is a loss in 1901 over 1896 of 11.2 per cent., or an average annual loss of 2.24 per cent. It will be observed, however, that the number of local passengers carried increased from 2,343,592 in 1896 to 3,079,606 in 1901.

The average rates for all passengers for each of the years were as follows : .022682- .021749- .022250- .021818- .021935 and .020343. The rate in 1901 is 10.3 per cent. less than the rate in 1896, showing an average annual loss of 2.06 per cent., but the total number of passengers carried in 1896, 2,564,059, increased in 1901 to 3,400,075.

Through passengers, Michigan :

1897 shows a loss, as compared with 1896, of 1.87 per cent. ; 1898, a loss from 1897 of 12.21 per cent. ; 1899, a gain over 1898 of 15.25 per cent. ; 1900 over 1899, a gain of 10.71 per cent., 1901, a gain over 1900 of 32.25 per cent. ; 1901, a gain over 1896 of 45.25 per cent., or an average annual increase of 9.05 per cent.

Local passengers, Michigan :

1897 shows a loss from 1896 of 5.67 per cent. ; 1898, a loss from 1897 of 0.735 per cent. ; 1899, a gain over 1898 of 14.60 per cent. ; 1900, a loss from 1899 of 2.04 per cent. ; 1901, a gain over 1900 of 18 per cent. ; 1901 a gain over 1896 of 23.90 per cent., or an average annual increase of 4.78 per cent.

Total passengers, Michigan :

1897 shows a loss from 1896 of 5.28 per cent. ; 1898, a loss from 1897 of about 2 per cent. ; 1899, a gain over 1898 of 14.66 per cent. ; 1900, a loss from 1899 of 0.82 per cent. ; 1901, a gain over 1900 of 19.50 per cent. ; 1901 a gain over 1896 of 26.20 per cent., or an average annual increase of 5.24 per cent.

Passenger miles, Michigan :

1897 shows a loss, as compared with 1896 of 4.47 per cent. ; 1898 a gain over 1897 of 3.86 per cent. ; 1899, a gain over 1898 of 11.05 per cent. ; 1900, a gain over 1899 of 10.20 per cent. ; 1901 a gain over 1900 of 9.71 per cent. ; while 1901 shows a gain over 1896 of 33.20 per cent., or an average annual increase of 6.64 per cent.

Passenger distance, Michigan :

The distances for each of the years from 1896 to 1901 inclusive are as follows : 43.10 miles ; 43.46 miles ; 46.05 miles ; 44.60 miles ; 49.55 miles and 45.48 miles. This item shows comparatively little change through the interval between 1896 and 1901, reaching its high point in 1900. The increase in 1901 over 1896 is 2.38 miles or an increase of 5.54 per cent.

Passenger amount, Michigan :

The amounts received from each passenger for the series of years from 1896 to 1901 inclusive, are as follows : \$1.02- \$1.01- \$1.059- \$1.031- \$1.112- \$1.062. The increase for 1901 is 4.05 per cent., but the amount in 1901 as compared with 1896, should be specially noted in connection with the number of passengers carried in each of those years, as the latter year will show a large increase over 1896.

Passenger receipts per mile, Michigan :

For through passengers, the rate each year is as follows : .01584- .020775- .020255- .022294- .020118 and .018992. The rate per mile for 1901 is nearly 20 per cent. higher than in 1896, although it will be noted that the high point was reached in 1899, when the rate was over 2 1/5 cts. per mile. The difference in the rate of 1901 over 1896 is of especial importance when taken in connection with the increased number of through passengers in the whole year of 1896.

The local passenger rates show for each year, as follows : .02886- .024462- .024097- .023446- .023881- .025715- The rate in 1901, it will be observed is about 10.9 per cent. lower than that of 1896, but comparison should be made of the numbers of local passengers carried in each of the years.

The rates for all passengers for the years in succession were as follows : .02732- .023229- .022994- .023209- .022711 and .023345.

The rate in 1901 is shown as about 14.6 per cent. less than in 1896. By referring to the subject above, total passengers, Michigan, it will

be noted that the number carried in 1901 was 2,650,919 as against 2,100,874 in 1896.

Analysis Freight Traffic.

Through freight tons, system :

In 1897, the increase over 1896 was 3.10 per cent. ; 1898 over 1897, 6.50 per cent. ; 1899 over 1898, 18.21 per cent. ; 1900 shows a loss from 1899 of 11.1 per cent. ; 1901 shows a gain over 1900 of 15.45 per cent. ; while 1901 shows a gain over 1896 of 33.20 per cent., or an average annual increase of 6.64 per cent.

Local freight tons, system :

1897 shows a gain over 1896 of 5.40 per cent. ; 1898, a gain over 1897 of 15.60 per cent. ; 1899 over 1898 of 15.05 per cent. ; 1900, a gain over 1899 of 8.02 per cent. ; 1901 a gain over 1900 of 4.05 per cent. ; and 1900 over 1896 of 57.80 per cent., or an average annual increase of 11.56 per cent.

924 Total freight tons, system.

1897 shows a gain over 1896 of 4.84 per cent. ; 1898, a gain over 1897 of 13.35 per cent. ; 1899, a gain over 1898 of 15.82 per cent. ; 1900, a gain over 1899 of 3.48 per cent. ; 1901 over 1900 of 6.36 per cent. ; 1901 over 1896 of 51.60 per cent., or an average annual increase of 10.32 per cent. There is an apparent difference in the total ton mileage for the year 1900, the amount being reported in two different places as 10,171,001 and 10,367,518. The latter figure has been used in this analysis.

Through ton mileage, system.

1897 shows a gain over 1896 of 3.35 per cent. ; 1898, a gain over 1897 of 9.88 per cent. ; 1899 a gain over 1898 of 18.72 per cent. ; 1900 a loss from 1899 of 7.43 per cent. ; 1901 a gain over 1900 of 12.35 per cent. ; and 1901 over 1896 a gain of 40.30 per cent., or an average annual increase of 8.06 per cent.

Local ton mileage, system.

1897 shows a gain over 1896 of 3.90 per cent. ; 1898 over 1897 of 7.20 per cent., 1899 a gain over 1898 of 15.34 per cent. ; 1900 over 1899 of 14.78 per cent. ; 1901 a loss from 1900 of 4.50 per cent. and 1901 over 1896 a gain of 40.80 per cent., or an average annual increase of 8.16 per cent.

Total ton mileage, system.

1897 shows a gain over 1896 of 3.62 per cent. ; 1898 shows a gain over 1897 of 8.60 per cent. ; 1899 a gain over 1898 of 17.12 per cent. ; 1900 over 1899 a gain of 2.85 per cent. ; 1901 over 1900 a gain of 3.67 per cent. ; 1901 over 1896 a gain of 40.60 per cent., or an average annual increase of 8.12 per cent.

Through ton haul, system.

These distances are shown for the years 1896 to 1901 inclusive as 426 miles; 427 miles; 441 miles; 443 miles; 461 miles and 449 miles. As an inspection will show, there was a gradual gain in haul up to and including 1900. The ton haul in 1901 was about 12 miles less than in 1900, and 23 miles more than that of 1896, an increase over the whole year of about 5.4 per cent., or an average annual increase of 1.08 per cent.

Local ton haul, system.

The distances for the years 1896 and 1901 inclusive are as follows: 129 miles; 127 miles; 118 miles; 118 miles; 125 miles and 115 miles. This mileage shows a decrease in 1901 from 1896 of 14 miles, or loss of 10.8 per cent., an average annual decrease of 2.16 per cent.

All freight to haul, system.

The lengths of this average haul for the years in question are as follows: 199 miles; 201 miles; 191 miles; 195 miles; 193 miles and 189 miles. This shows a falling off in 1901, as compared with 1896, of a total decrease of 5.02 per cent, an average annual decrease of about 1 per cent.

925 Average amount for ton haul, system.

These amounts show as follows: \$1.29- \$1.24- \$1.15- \$1.10- \$1.15 and \$1.17. The amount reached its lowest point in 1899, when the average was \$1.10 and in 1901 had risen to \$1.17. The amount in 1901 was, however, 12 cts. less than that in 1896, a loss of 9.32 per cent., or an average annual decrease of \$1.86 per cent. These average amounts per ton haul should be compared carefully with the total freight tonnage for the corresponding years, as shown above.

Receipts per ton mile, system.

The through freight rates for the years 1896 to 1901 inclusive are as follows: .00505- .00484- .00463- .00420- .00437 and .00471. This rate seems to have fallen to its lowest point, .00420, in the year 1899. It then rose in 1901 to .00471, at which point it was .00044 below the rate of 1896, or a decrease of 8.56 per cent., an average annual loss in the rate of 1.71 per cent. This change in the rate, as well as the rate for each succeeding year, should be carefully compared with the ton mileage of through freight as shown above.

The rates for local freight for each of the years in question were as follows: .00768- .00762- .00728- .00713- .00737 and .00762. The low point in this rate, as in the one of through freight just mentioned seems to have been in 1899, when it fell to .00713. The rate then rose to .00762 in 1901, which figure is but 0.78 per cent. below the rate in 1896. These rates should be carefully compared with the local ton mileage, as given above, for the corresponding years.

The rates for all freight for each of the years noted were as follows: .00636-.00616-.00517-.00562-.00592 and .00618. The low point was in 1899, when the rate was .00562 and then had risen to .00618 in 1901. The whole year shows a decrease of 2.85 per cent., as compared with 1896, an average decrease of 0.57 per cent. These rates should be compared with the total ton mileage shown above.

Through freight tons, Michigan :

1897 shows a gain over 1896 of 1.68 per cent.; 1898, a gain over 1897 of 9.06 per cent.; 1899 a gain over 1898 of 24.48 per cent.; 1900 a loss from 1899 of 4.41 per cent. 1901 a gain over 1900 of 16.55 per cent.; while 1901 shows a total increase over 1896 of 53.80, an average annual increase of 10.76 per cent.

Local freight tons, Michigan :

1897 shows a gain over 1896 of 8.64 per cent.; 1898 a gain over 1897 of 15.74 per cent., 1899, a gain over 1898 of 15.67 per cent.; 1900 a gain over 1899 of 9.67 per cent.; 1901, a loss from 1900 of 1.61 per cent.; while 1901 shows a total increase over 1896 of 56.80, an average annual increase of 11.36 per cent.

Total freight tons, Michigan :

1897 shows a gain over 1896 of 5.16 per cent.; 1898 a gain over 1897 of 12.50 per cent.; 1899 over 1898, a gain of 19.82 per cent.; 1900, a gain over 1899 of 2.84 per cent.; 1901 a gain over 1900 of 6.58 per cent.; while 1901 shows a total increase over 1896 of 55.35 per cent., or an average annual increase of 11.07 per cent.

Through ton mileage, Michigan :

1897 shows an increase over 1896 of 1.08 per cent.; 1898 an increase over 1897 of 13.68 per cent.; 1899, an increase over 1898 of 21.71 per cent.; 1900, an increase over 1899 of 1.10 per cent.; 1901 an increase over 1900 of 6.90 per cent.; while the total increase of 1901 over 1896 is 51.35 per cent., an average annual increase of 10.27 per cent.

Local ton mileage, Michigan :

1897 shows a gain over 1896 of 5.04 per cent.; 1898 a gain over 1897 of 12.57 per cent.; 1899 over 1898 a gain of 22.65 per cent.; 1900 over 1899, a gain of 4.88 per cent.; 1901 a gain over 1900 of 7.38 per cent.; while 1901 shows a gain over 1896 of 63.35 per cent. or an average annual increase of 12.67 per cent.

Total ton mileage, Michigan :

1897 shows a gain over 1896 of 2.54 per cent.; 1898 a gain over 1897 of 13.25 per cent.; 1899 over 1898 of 22.15 per cent.; 1900 over 1899 of 2.54 per cent.; 1901 a gain over 1900 of 7.10 per cent.; while

the total increase from 1896 to 1901 has been 55.80 per cent., an average annual increase of 11.16 per cent.

Through ton haul, Michigan :

The respective distances for the years 1896 to 1901 inclusive are as follows: 148 miles; 147 miles; 153 miles; 150 miles; 158 miles and 145 miles. The highest point seems to have been reached in 1900 when the average haul was 158 miles, while the haul in 1901 is but 3 miles or 2.03 per cent. less than in 1896.

The distances for the respective years are 86 miles, 83 miles, 81 miles, 86 miles, 82 miles and 89 miles, the distance in 1901 being but 3 miles or 3½ per cent. greater than in 1896.

All freight ton haul, Michigan :

The distances from 1896 to 1901 inclusive are as follows: 117 miles; 114 miles; 114 miles; 117 miles; 116 miles and 117 miles. Comparatively little change is shown in the distances but they should be compared with the total tonnage as shown above.

Average amount for ton haul, Michigan :

These amounts for the successive years are as follows: \$.84- \$.80- \$.81- \$.78- \$.81 and \$.83. The amount for 1901 was but 1 c., or about 1.2 per cent. less than in 1896. The low point seems to have been reached at 78 c. in 1899. These amounts should be carefully compared with the total tonnage hauled for each of the corresponding years.

927 Receipts per ton mile, Michigan :

The rates for through freight for each of the years are as follows: .00646- .00534- .00545- .00491- .00549 and .00551. The rate seems to have been lowest in 1899, when it was .00491, from which point it rose to .00551 in 1891, a total decrease of 14.7 per cent., or an average annual decrease of 2.94 per cent. These rates should be compared with the through ton mileage for Michigan as shown above.

The local rates are stated as follows: .00850- .00958- .00948- .00926- .00899 and .00928. The high point seems to have been reached in 1887, when the rate was .00958, and the low point in 1896, when the rate was .00850. The rate in 1901 is .00928 and is 9.18 per cent. higher than in 1896, an average increase of about 1.84 per cent.

The rates for all freight were as follows: .00721- .00707- .00710- .00667- .00697- .00711. The low point seems to have been reached in 1899, when the rate was .00667. The rate in 1901, .00711 is but 1.38 per cent. less than the highest in this series of years, .00721 in 1896. The average decrease per year would be .00276 per cent. These rates should be compared with the total ton mileage for Michigan as shown above.

928 The WITNESS: The object of this compilation is to find the natural increase or decrease in various features of operation. The following comparisons may be drawn from the compilations:

Increases of 1901 over 1896.

Character operation.	Part of road.	Increase in percentage. Per cent.	Average annual increase. Per cent.
Passenger train mileage	System	10.5	2.1
Passenger mileage	"	46.2	9.24
Passenger train mileage	Michigan	2.075	.0415
Passenger mileage	"	33.2	6.64
Freight train mileage	System	24.55	4.91
Total tonnage	"	51.6	10.32
Total ton mileage	"	40.6	8.12
Total train mileage	Michigan	28.6	5.72
Total tonnage	"	55.35	11.07
Total ton mileage	"	55.8	11.16

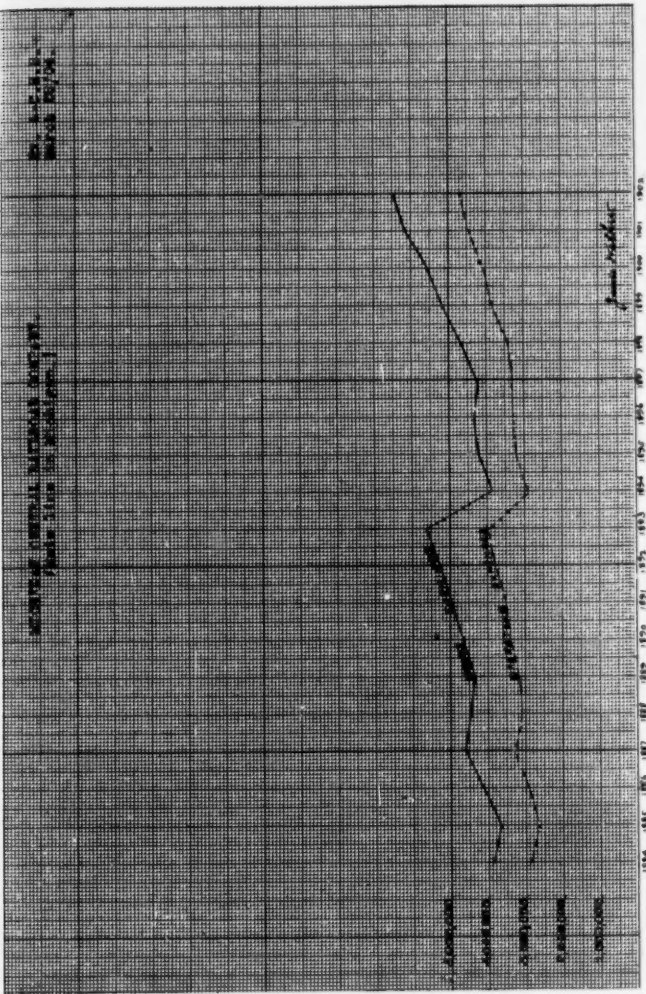
Though the rates per passenger and per ton mile for passengers and freight decreased from 1896 to 1901, the large increase in passengers and freight carried, shows a large increase in gross earnings.

I have prepared charts to indicate the relation of the operating expenses to the gross earnings on the lines of the Michigan Central system, from 1882 to 1902, one each, for the main lines, for the entire system and for each constituent company. On each of these charts are two lines representing the gross earnings and the operating expenses. On the left is shown the scale of money and horizontally at the bottom, the scale of time. The chart for the system in addition represents the general expenses, cost of conducting, transportation, maintenance of equipment and of way, and structures. The figures are correctly taken from the companies' reports to the commissioner of railroads and correctly represent the reports from which taken.

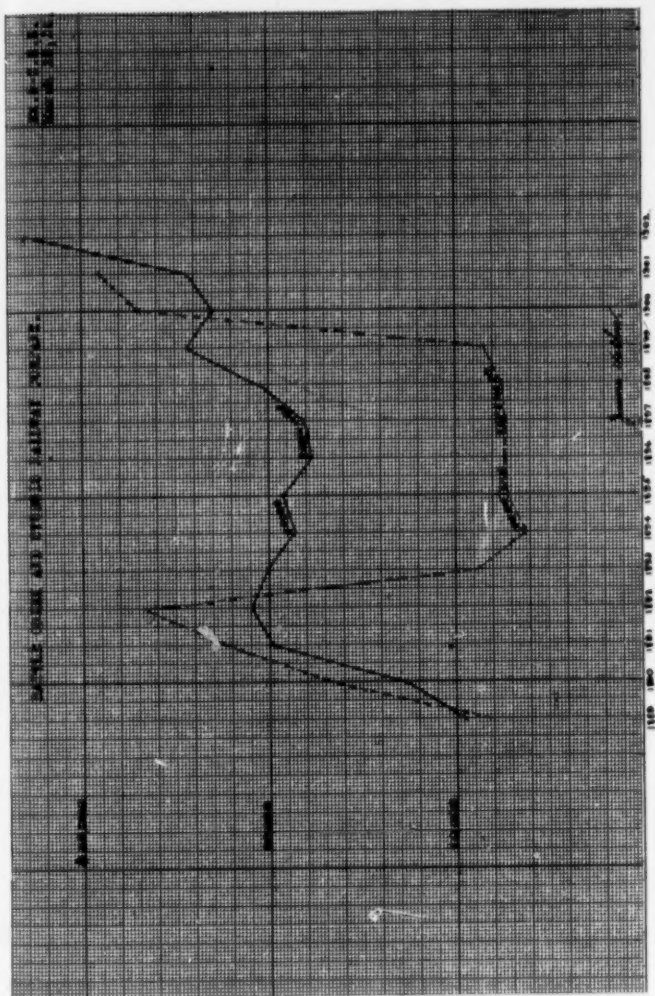
The charts were offered in evidence subject to objection of incompetent and immaterial. They are as follows:

(Here follow diagrams marked pp. 929 to 941, incl.)

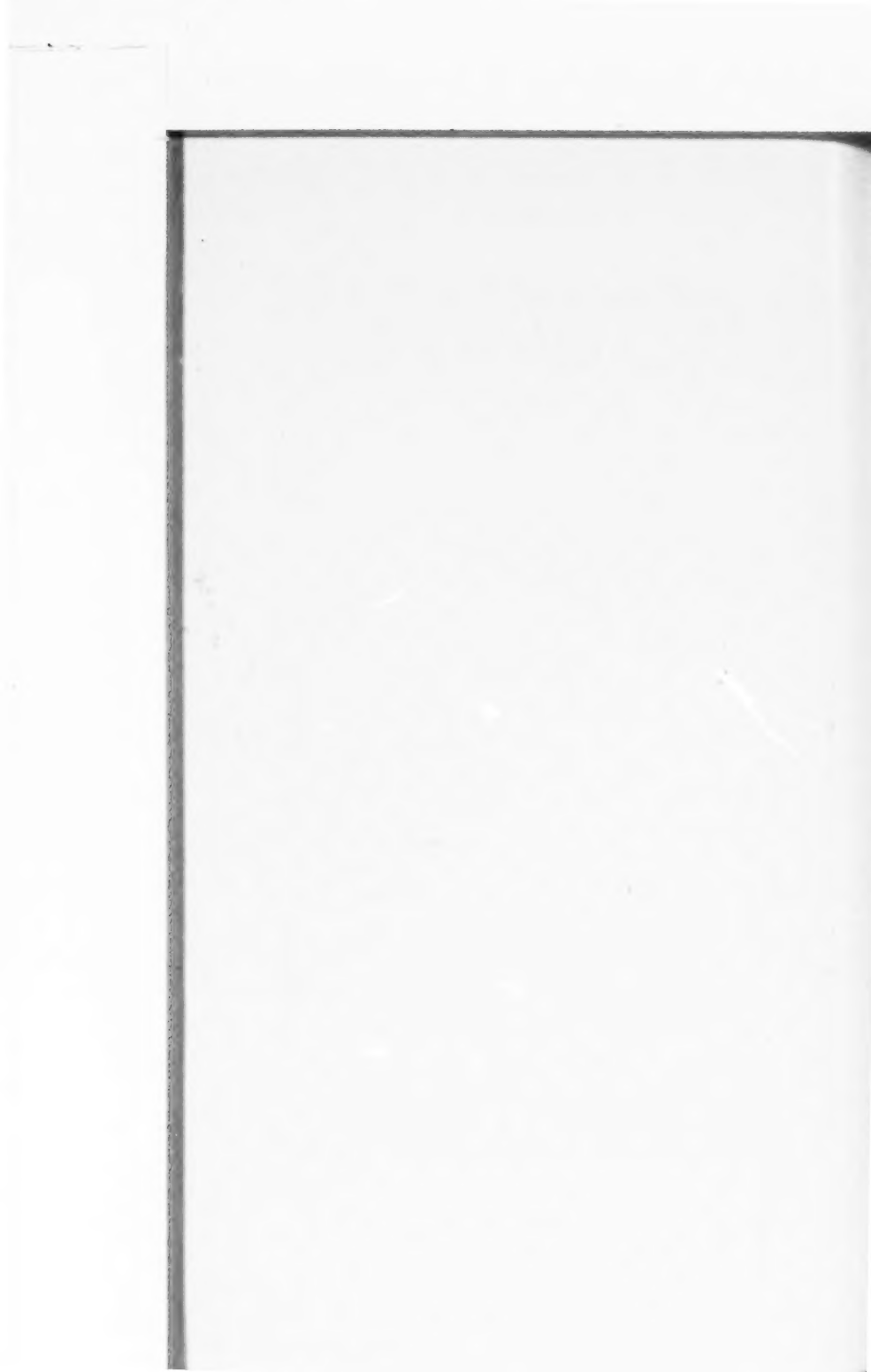


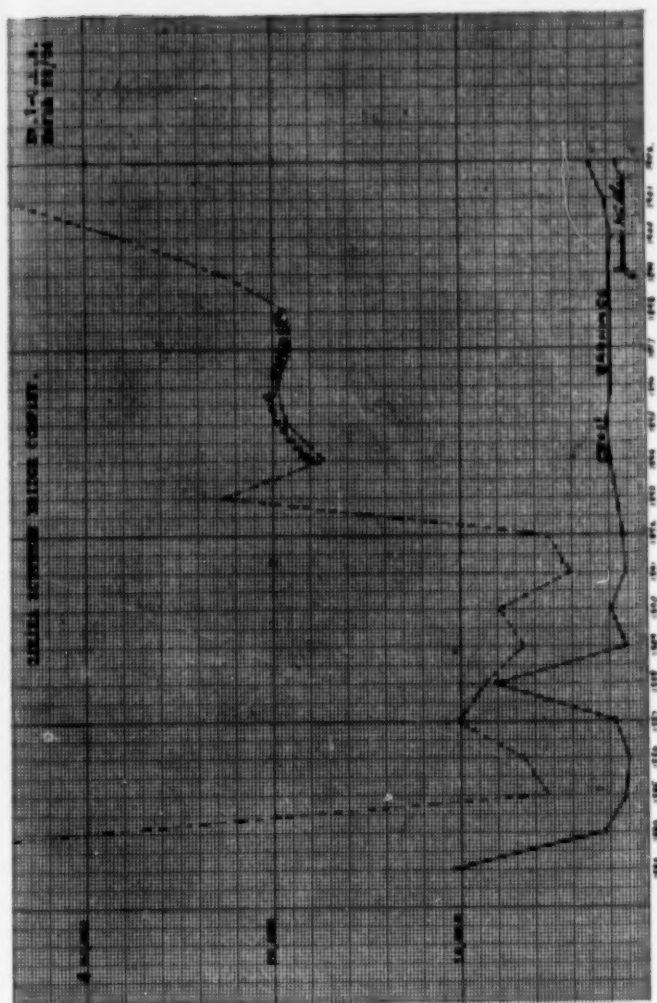


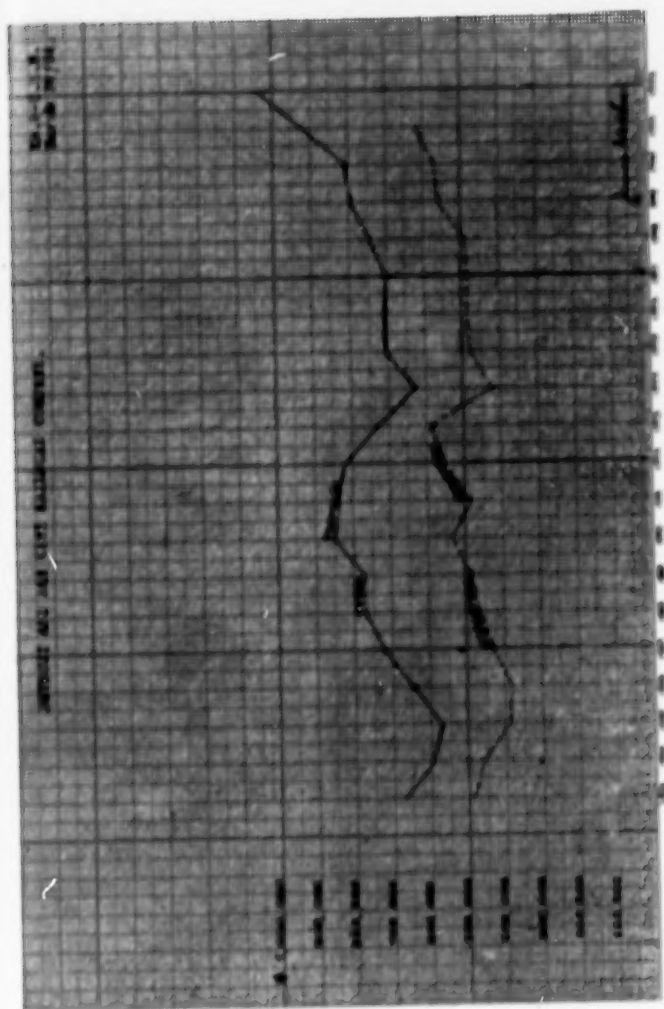




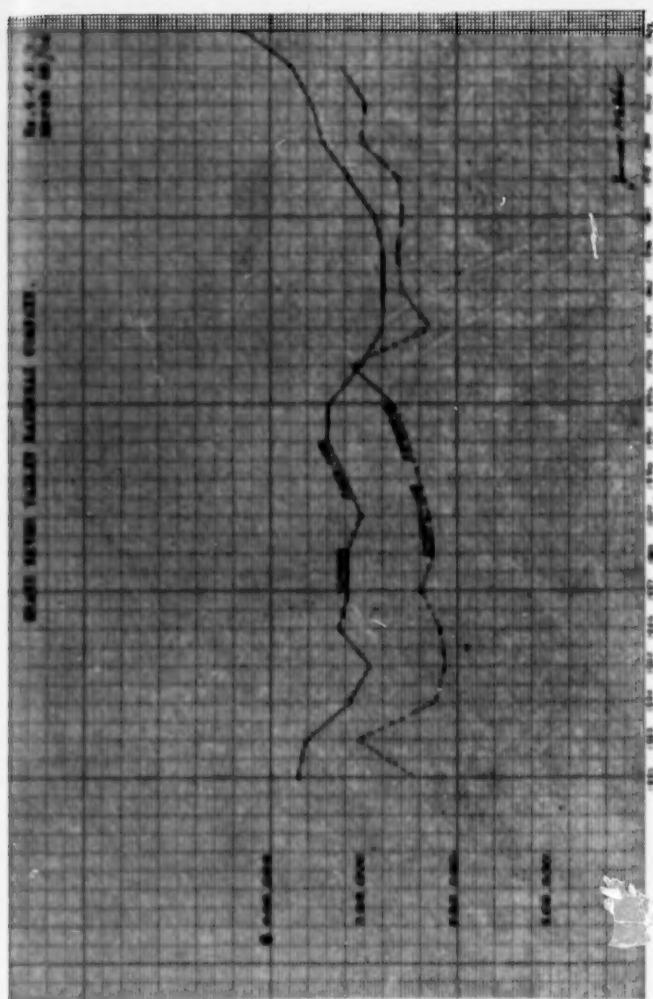




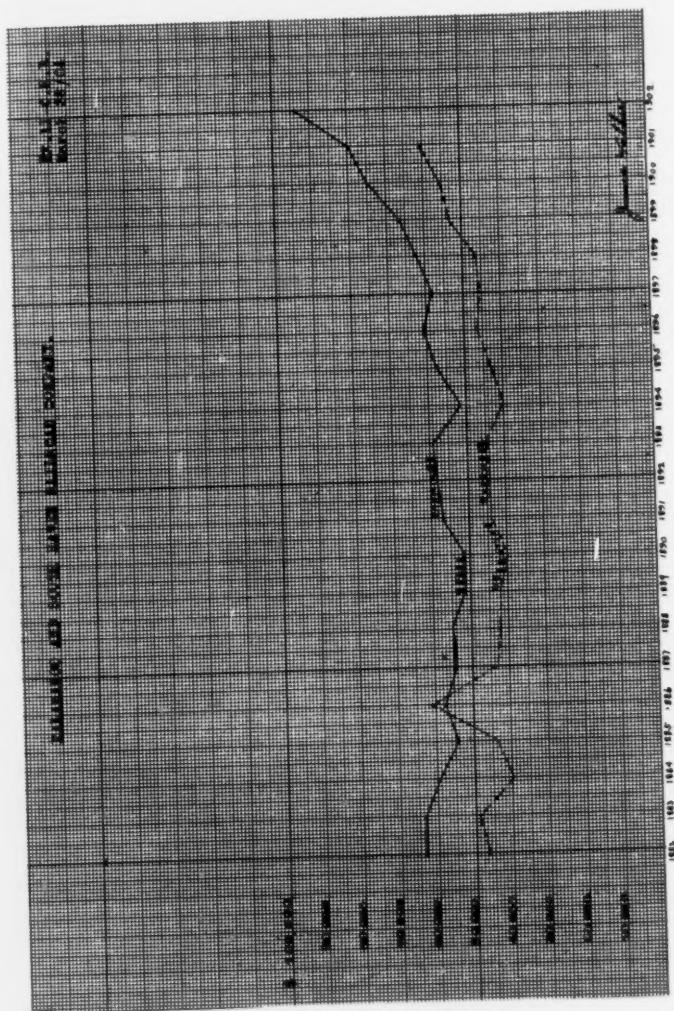


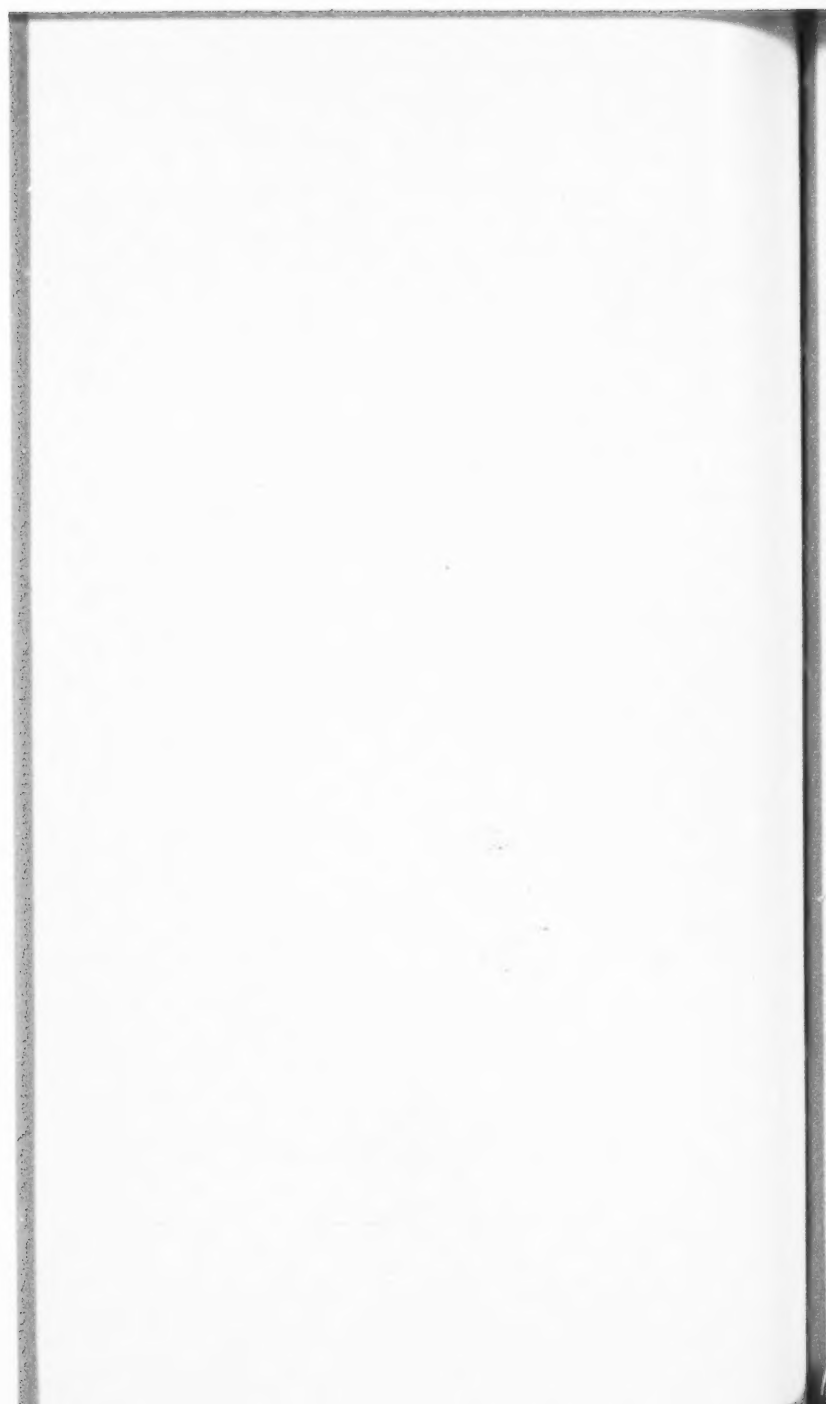


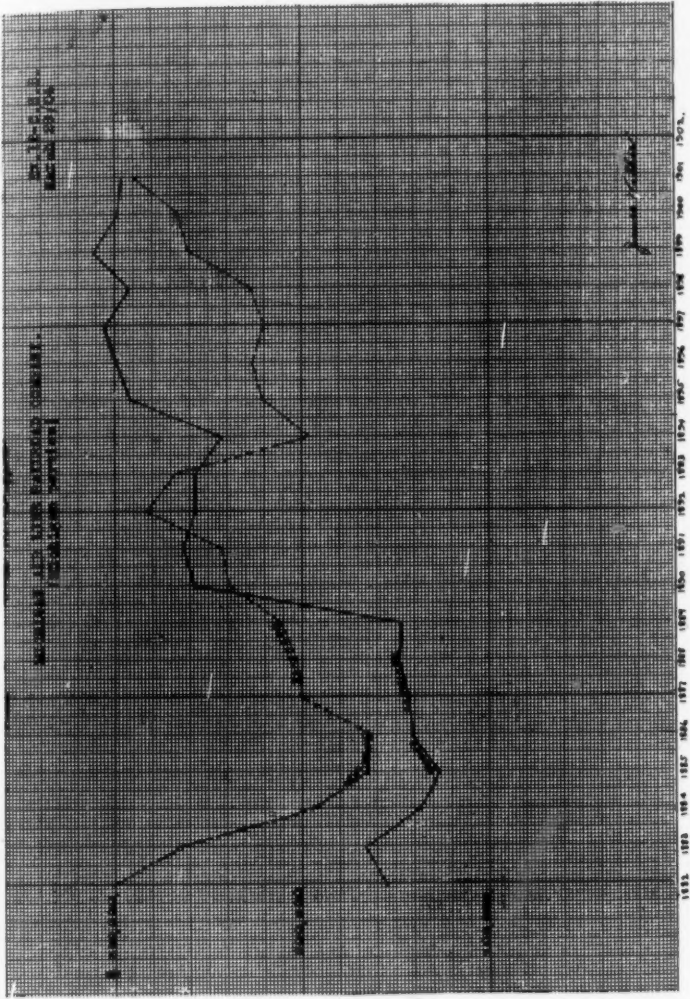


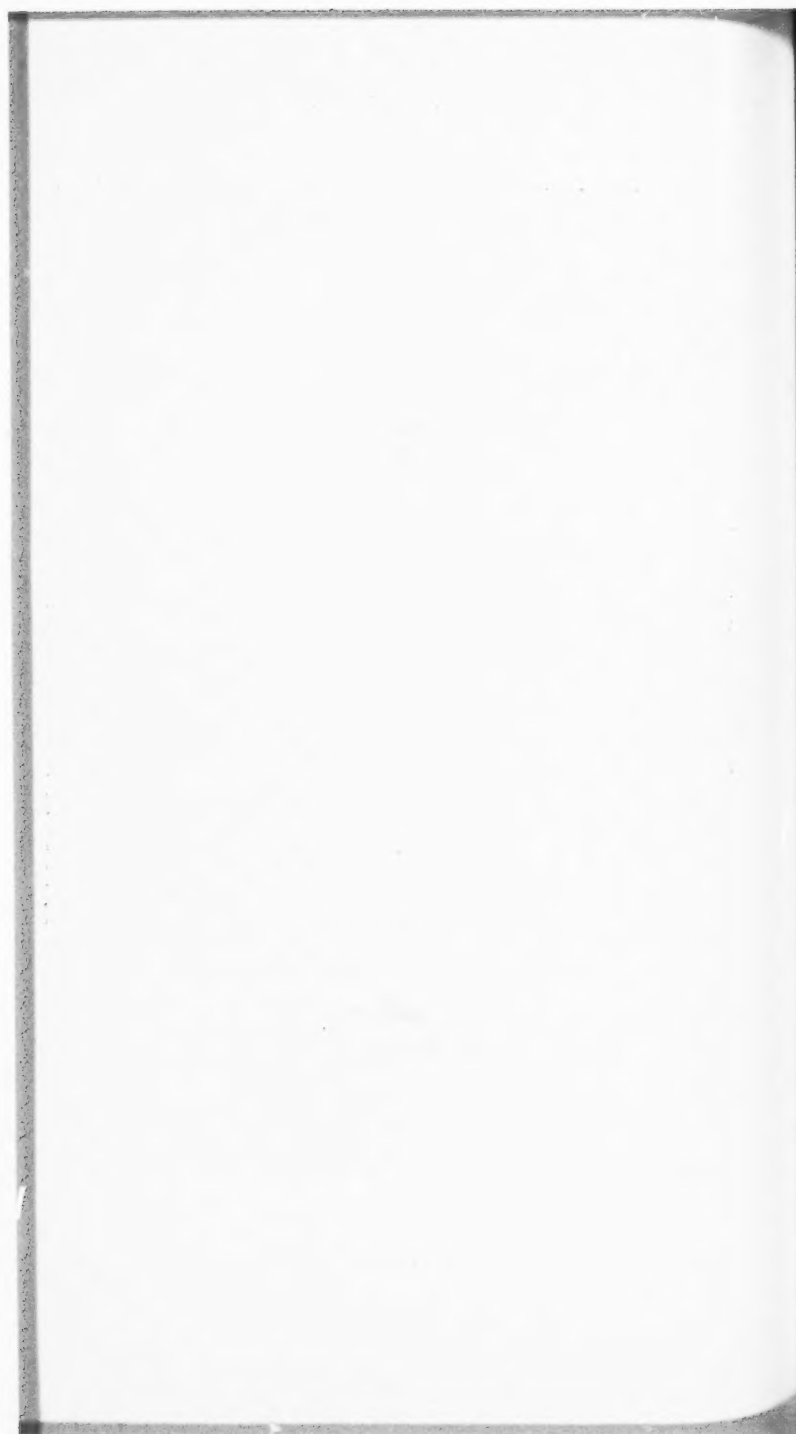


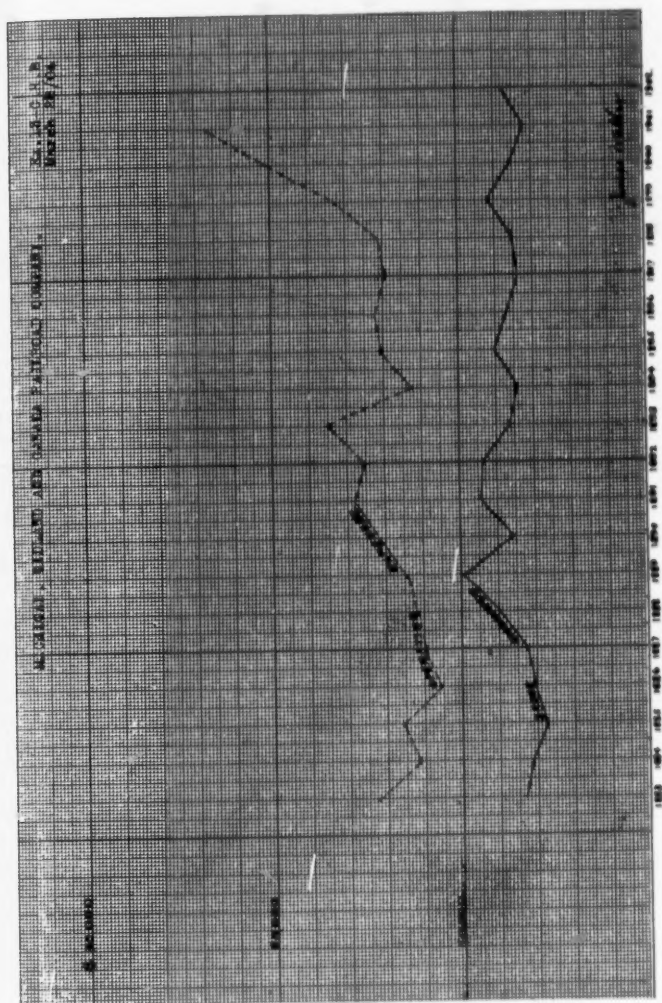


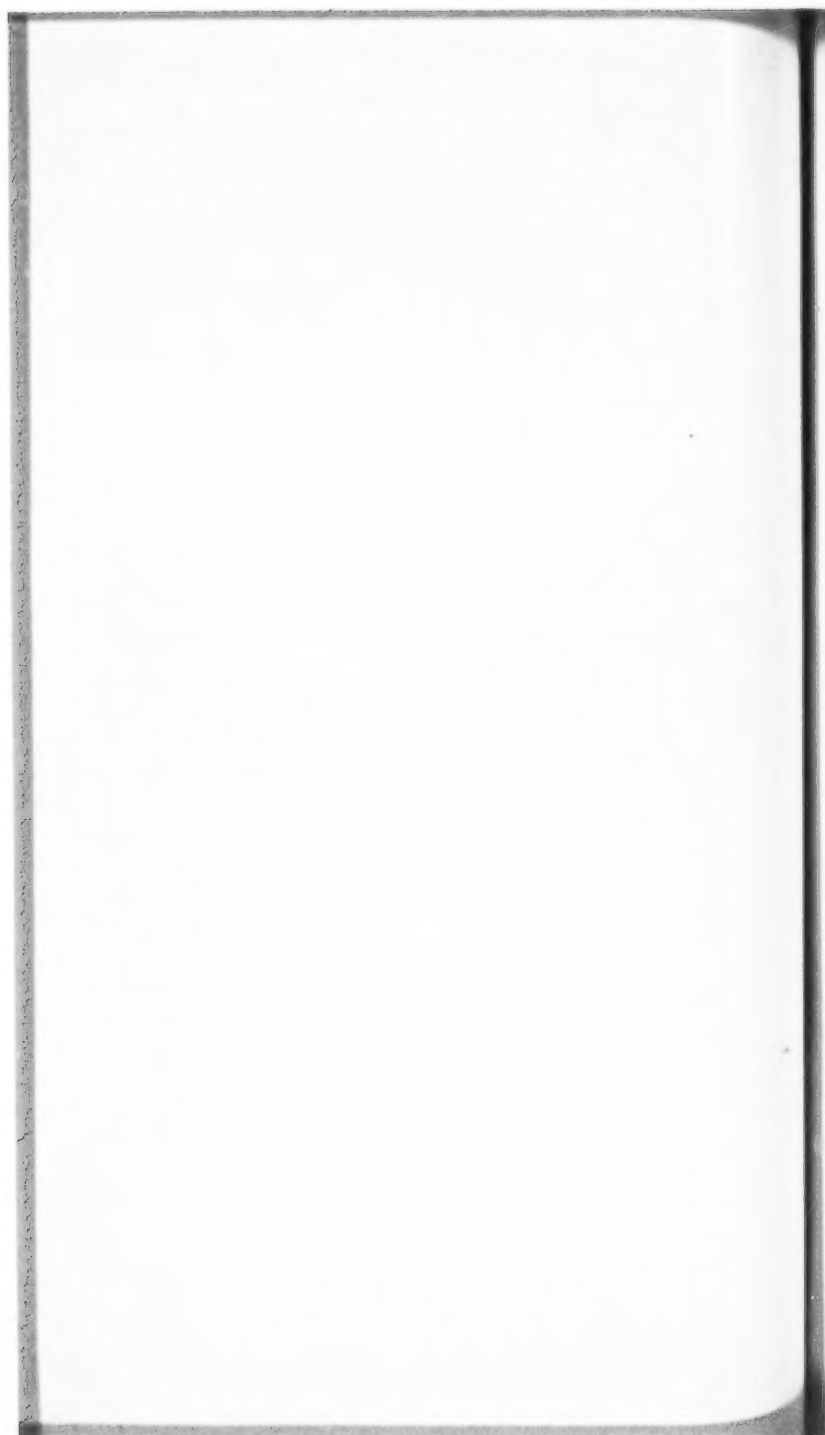
















942 The charts illustrate that the operating expenses are assigned arbitrarily and are out of proportion to the business done as evidenced by gross earnings. Because of this I have treated the earning power from the standpoint of the entire system.

(Witness details, from reports to railroad commissioner, gross earning, operating expenses exclusive of taxes, net earnings and taxes for system, also partial figures from report to board of assessors, year to June 30, 1902, as follows :

For the Years 1890 to 1902.

In 1890, gross earnings.....	\$14,543,858.59
Operating expenses	10,427,402.78
Net earnings.....	4,116,455.81
Taxes.....	304,351.29
1891, gross earnings.....	15,221,838.63
Operating expenses.....	10,797,720.49
Net earnings.....	4,424,118.14
Taxes.....	309,849.01
1892, gross earnings.....	15,957,024.20
Operating expenses.....	11,719,578.70
Net earnings.....	4,237,445.50
Taxes.....	326,515.91
1893, gross earnings.....	16,224,862.71
Operating expenses.....	11,946,917.23
Net earnings.....	4,277,945.48
Taxes.....	340,875.12
1894, gross earnings.....	12,628,663.
Operating expenses.....	8,803,463.55
Net earnings.....	3,825,199.45
Taxes.....	340,644.42
1895, gross earnings.....	13,700,497.94
Operating expenses.....	9,880,732.42
Net earnings.....	3,819,765.52
Taxes.....	302,498.89
1896, gross earnings.....	13,861,299.78
Operating expenses.....	10,065,896.91
Net earnings.....	3,795,402.87
Taxes.....	326,452.99
1897, gross earnings.....	13,741,858.81
Operating expenses.....	9,919,193.61
Net earnings.....	3,822,665.20
Taxes.....	330,316.71
1898, gross earnings.....	14,090,827.41
Operating expenses.....	10,137,873.50
Net earnings.....	3,952,953.91
Taxes.....	408,098.68
1899, gross earnings.....	15,552,760.72
Operating expenses.....	11,577,423.69
Net earnings.....	3,975,337.03

Taxes	426,693.02
1900, gross earnings.....	16,780,150.10
Operating expenses.....	12,762,284.58
Net earnings.....	4,017,865.52
Taxes	467,205.77
1901, gross earnings.....	18,564,936.85
Operating expenses	14,237,831.06
Net earnings.....	4,327,105.79
Taxes	508,132.90
1902, gross earnings	19,106,255.86
Operating expenses.....	14,918,442.22
Net earnings.....	4,187,813.64
Taxes	549,062.33
In Exhibit 8, Feb. 19th, 1904, the report of the Michigan Central Railroad Company to the State board of assessors, page 39, the gross earnings	
944 for the year ending June 30th, 1902, is shown as	\$18,763,890.48
Operating expenses.....	14,435,896.65
Net earnings.....	4,327,993.83
Taxes	531,352.90

Attention is called to the increased ratio between the operating expenses and gross earnings from 1896 to 1902, due largely to the increase in construction and equipment carried to the operating account.

Exhibit 8, Feb. 19, 1904, (pp. 35, 37), the report to the State board of assessors for 1902, shows permanent improvements in operating expenses of \$1,383,939.22. That the company has charged permanent improvements into operating expense and income and maintained its interest and dividends is proof of strength and security of its operation and confidence in its ability to protect net earnings.

In referring to the reports of the railroad commissioner of Michigan for the gross earnings, operating expenses, net earnings and taxes of this company's property reported to the State of Michigan for the years 1890 to 1902, we find the statistics as follows:

945 In 1890—gross earnings.....	\$8,425,357.81
Operating expenses (exclusive of taxes).....	6,328,828.94
Net earnings.....	2,096,528.87
Taxes.....	224,971.93
In 1891—gross earnings.....	8,814,776.68
Operating expenses.....	6,384,066.54
Net earnings.....	2,430,710.14
Taxes.....	229,107.98
In 1892—gross earnings.....	9,079,235.94
Operating expenses.....	6,882,818.41
Net.....	2,196,417.53
Taxes.....	238,991.69

In 1893—gross earnings.....	9,179,245.19
Operating expenses.....	7,091,011.82
Net.....	2,088,233.37
Taxes.....	237,504.99
In 1894—gross earnings.....	7,002,157.23
Operating expenses.....	5,104,816.37
Net.....	1,897,340.86
Taxes.....	229,147.27
In 1895—gross earnings.....	7,583,053.98
Operating expenses.....	5,820,826.49
Net.....	1,762,227.49
Taxes.....	206,351.22
In 1896—gross earnings.....	7,540,683.41
Operating expenses.....	5,923,715.73
Net.....	1,616,967.68
Taxes.....	228,218.91
In 1897—gross earnings.....	7,439,389.37
Operating expenses.....	5,895,542.74
Net.....	1,543,846.63
Taxes.....	221,078.81
In 1898—gross earnings.....	8,165,522.15
Operating expenses.....	6,002,898.08
Net.....	2,162,684.07
Taxes.....	289,367.62
In 1899—gross earnings.....	9,216,054.51
Operating expenses.....	6,788,677.97
Net.....	2,427,376.54
Taxes.....	320,488.81
In 1900—gross earnings.....	9,910,322.57
Operating expenses.....	7,217,826.97
Net.....	2,692,495.60
Taxes.....	367,908.44
In 1901—gross earnings.....	10,890,069.62
Operating expenses.....	7,915,319.83
Net.....	2,974,749.79
Taxes.....	400,613.45
In 1902—gross earnings.....	11,718,301.25
Operating expenses.....	8,392,077.66
Net.....	3,326,223.59
Taxes.....	443,932.02

946 In a statement attached to the report, to board of assessors for 1902, the Michigan gross earnings of the Michigan Central are given as \$11,227,926.78; comparing with the earnings for the entire system, 1890 to 1902, at no time did the Michigan proportion exceed 61.3 per cent.; Michigan's proportion of the mileage (p. 12, Ex. 8, Feb. 19, 1904) is 68.65 per cent.; the gross earnings assigned to Michigan varied from 54.1 per cent. in 1897 to 61.3 per cent. in 1902; the net earnings credited to Michigan ranged from 51 to 80

per cent., the relatively high proportion of Michigan net earnings may result from the fact that an operating ratio of 90 per cent. is shown to the Dominion of Canada, for the year to June 30, 1902.

The operation ratio (exclusive of taxes) was :

	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902
System.	71.8	71.0	73.5	73.5	69.7	72.1	72.3	72.2	71.8	74.4	76.1	76.9	78.1
Michigan.	75.1	72.4	75.9	77.3	73.0	76.9	78.6	79.2	73.5	74.5	73.0	72.8	71.8

The company's income account, (June 30, 1902) indicates it was able after including \$1,383,939.22 of permanent improvements in its operating account; to charge against net income for improvements \$210,000, pay interest and dividends and carry to surplus \$141,646.21.

Deducting the \$1,383,939.22 for permanent improvements would give ratio of 69.5 instead of 76.9 per cent. Improvements charged against net income were in 1899, \$70,000; 1900, \$65,000; 1901, \$80,000.

As the result of figures, indicating the fact that the Michigan Central ratio of operating expenses in Michigan for 1902 to be less than 70 per cent., had not improvements been included in operating expenses, and for reasons indicated by curves (Ex. s, March 28, 1904) I have used, in determining average net earnings, an operating ratio of 70 per cent.

In capitalizing, I take as an average of the gross earnings 947 of the system from 1897 to 1901 inclusive \$15,746,107; using operating ratio of 70 per cent. gives net earnings of \$4,723,832; capitalizing them at 5.65 per cent. gives \$83,600,000; applying the track mileage percentage of 68.56 per cent. gives \$57,300,000; applying same process for 1898 to 1902, inclusive gives for system \$89,300,000; for Michigan, \$61,200,000. (Under objection of incompetent and irrelevant) Taking the year 1902, would give for the system \$102,250,000; and for Michigan \$70,102,600.

The 5.65 per cent. used for capitalization is the net market rate for money in quantities in railroad business, plus the tax rate of 1.65 per cent. The rate of capitalization depends on,—1st, market rate for money in the business under consideration; 2nd, the rate of taxation; 3rd, the security. The rate of 4 per cent. of Michigan Central is possibly high.

The earnings of the system in Michigan, based on a 10 year average, including 1900, used by Prof. Adams in 1900, were \$8,247,590; those reported to board of assessors in 1902, were \$[11]*, 227,927.

All this has influenced my judgment in arriving at an estimate of Michigan Central's property in Michigan. My opinion of its value in 1902, is the same as that recommended to the board of assessors—\$57,000,000.

[* Figures enclosed in brackets erased in copy.]

This reduced by local real estate in amount \$748,000 is \$56,252,000. I made a similar valuation of the Pere Marquette system, which I fixed at \$37,000,000, being the amount recommended to the board of assessors.

This reduced by the local real estate, (which by capitalization of the tax, \$12,096.34, equals \$730,000) leaves \$36,270,000. One consideration influencing my valuation is that the property has been organized as a consolidated company only since 1899.

The trackage since 1900 increased 162 miles; permanent improvements charged to construction and equipment accounts were \$2,100,684.35; funded debt was increased; and considerable new equipment was added. The physical value by Mr. Cooley in 1902 was \$34,798,973.

948 (The witness makes a detailed statement, *re* Pere Marquette of mileage, total and Michigan tonnage, passenger traffic and mileage, earnings and operating expenses.)

The operating ratio for three years beginning with 1900 was 73.15, 74.21, and 74.93 per cent. This has been accepted as the bulk of permanent improvements are charged to capital account and not to operating expenses.

I have capitalized the net earnings for calendar years, exclusive of taxes, at 5.65 per cent.

Year.	Net earnings.		Year.	Net earnings.	
1898	\$1,790,275	Equals \$31,600,000	1901	\$2,373,135	Equals \$42,000,000
1899	1,924,521	Equals 34,000,000	1902	2,834,507	Equals 50,000,000
1900	2,227,411	Equals 39,400,000	1902	2,497,290.64 ^a	Equals 44,000,000

NOTE 3.—From report to board of assessors.

The value I fixed at \$37,000,000 because the property was new and undeveloped in 1902 and I could not judge of its permanency.

Under objection of incompetent and irrelevant.

Had I had knowledge of its permanency as a system and that it would establish advantageous connections, the value would have been more. I limited my considerations to April, 1902. If the conditions coming into existence between 1902 and the present, could have been anticipated in 1902, they would have induced a higher value. Unless the property not used in the operation of road participates in the earnings, deduction of its value should not be made after the capitalization of earnings.

Exhibit 7, Feb. 19, 1904, the report to the board of assessors, (p. 36) states "the title to real estate amounting to \$121,570.71" is taxed locally. Deducting that amount would reach approximately \$36,879,000.

I have made a computation of taxes paid by railroad companies on local real estate. The taxes are as follows:

949	Ann Arbor.....	\$1,176 08
	Chicago, Milwaukee & St. Paul.....	300 93
	Chicago & North Western.....	7,090 62†
	Cincinnati, Saginaw & Mackinaw.....	124 10
	Detroit & Mackinac.....	521 76
	Detroit, Grand Haven & Milwaukee.....	415 64
	Duluth, South Shore & Atlantic.....	1,083 46
	Grand Rapids & Indiana.....	491 57
	Muskegon, Grand Rapids & Indiana.....	35 82
	Grand Trunk Western.....	8,316 09
	Chicago, Detroit & Canada Grand Trunk Junction....	358 84
	Michigan Air Line railway.....	52 83
	St. Clair Tunnel Co.....	420 73
	Toledo, Saginaw & Muskegon.....	52 23
	Lake Shore & Michigan Southern.....	781 04
	Marquette & Southern.....	142 96†
	Michigan Central.....	12,395 98†
	Mineral Range.....	124 19
	Munising.....	4,678 66
	Pere Marquette.....	12,096 34§
	Wisconsin & Michigan.....	73 10

* From report board of assessors, 1902.

† From report local assessors.

‡ From statements by Messrs. Russel and Butterfield before board of assessors on review.

§ Probably includes taxes for other purposes, also.

Under objection of incompetent and irrelevant, based on statement not of record in case and irrelevant if offered.

The difference of \$10,500,000 on the Michigan Central and \$11,500,000 on the Pere Marquette between the valuations by the board of assessors in 1902 and 1903, is not accounted for by any increase in the value of the property between the assessments.

Under objection of incompetent and irrelevant.

When the 1902 assessment was made the board had before it the result of Cooley-Adams' appraisal, the figures of which were, Michigan Central physical value, \$35,463,517, total value, \$49,633,417; Pere Marquette, physical value, \$28,300,084, total value, \$31,734,584.

Under objection of irrelevant, hearsay and not the best evidence.

In 1902, the board's valuation of the Michigan railroad properties was \$198,641,000 after, and \$208,212,500 before, review. The Cooley-Adams' aggregate on the same roads was about \$202,500,000.

950 Under objection of incompetent and irrelevant.

The board in fixing valuations made computations based on the earning power and the stocks and bonds of the several railroads and the results as applied to the Pere Marquette and the Michigan Central are more than final assessment. The board had before it my recommendation in substantially the figures testified to here; with all this before it, it reached preliminary values of these properties. (Book produced.) This book contains a record of that preliminary estimate.

Under objection of incompetent and irrelevant.

I was present at the board's meetings to consider the value of railroad property; this book is a record of the result of those meetings. The figures indicating the first estimate of the valuation of each road were observed by each member as they were recorded in the book.

Under objection of incompetent and irrelevant.

I was present at one meeting of the board subsequent to placing the figures on this book.

Witness reads from the book labelled, "Official preliminary list of values," as follows:

Ann Arbor railroad.....	\$8,332,000
Arcadia & Betsey River.....	75,000
Au Sable & Northwestern.....	350,000
Boyer City & Southeastern.....	320,000
Chicago, Detroit & Canada Grand Trunk Junction.....	2,195,000
Grand Trunk Western.....	13,000,000
Chicago, Kalamazoo & Saginaw.....	600,000
Chicago, Milwaukee & St. Paul.....	5,500,000
Chicago & Northwestern.....	20,500,000
Cincinnati Northern.....	350,000
Cincinnati, Saginaw & Mackinaw.....	865,500
Cleveland, Cincinnati, Chicago & St. Louis.....	1,855,000
Copper Range.....	2,400,000
Detroit, Grand Haven & Milwaukee.....	5,650,000
Detroit, Toledo & Milwaukee.....	1,800,000
Detroit Southern.....	950,000
Detroit & Mackinaw.....	5,500,000
Duluth, South Shore & Atlantic.....	16,700,000
Pere Marquette.....	38,000,000
Gogebic & Montreal River.....	550,000
Grand Rapids & Indiana system.....	12,500,000
Lake Shore & Michigan Southern system.....	55,000,000
Manistee & Grand Rapids.....	700,000
Manistee & Northeastern.....	1,500,000
Manistique.....	570,000
Manistique & Northwestern.....	800,000
Mason & Oceana.....	150,000

Michigan Air Line railway.....	700,000
Michigan Central system.....	60,000,000
Milwaukee, Benton Harbor & Columbus.....	300,000
Mineral Range.....	3,000,000
Minneapolis, St. Paul & Sault Ste. Marie.....	4,500,000
Munising	700,000
Pontiac, Oxford & Northern.....	1,400,000
Sault Ste. Marie Bridge Company.....	425,000
South Haven & Eastern.....	300,000
St. Clair Tunnel Company.....	1,575,000
St. Joseph, South Bend & Southern.....	400,000
Toledo, Saginaw & Muskegon.....	650,000
Wisconsin & Michigan.....	225,000
Wabash	3,500,000
Detroit Union Railroad Depot and Station Company...	2,013,540
Fort Street Union Depot Company.....	2,250,000
Bear Lake & Eastern.....	50,000
Crawford & Manistee River.....	37,000
Hecla & Torch Lake.....	1,025,000
Lake Superior & Ishpeming.....	1,518,000
Lewiston & Southeastern.....	48,000
Manistee & Luther.....	175,000
Quincy & Torch Lake.....	390,000
Toledo & Monroe.....	375,000
Escanaba & Lake Superior.....	1,125,000
Detroit & Charlevoix.....	450,000

The total being..... \$273,843,040

951 At this time the investigation of the Lake Shore was meager and valuation appearing represents the track mileage proportion of tentative value placed on the entire system;—the meaning of section eight of act 173, being in doubt.

Under objection of incompetent and irrelevant.

Messrs. Freeman and Sayre were anxious to crowd down the valuation of certain railroads; Sayre, that of the Pere Marquette and Freeman that of the Michigan Central. The final values of those systems were materially below those first determined upon.

Under objection of incompetent and irrelevant.

Messrs. Freeman and Sayre evinced more anxiety about reaching low values for the Pere Marquette and the Michigan Central than about any other railroads.

Under objection of incompetent and irrelevant.

Their valuations on those properties seemed fixed in advance; Mr. Sayre's figure for the Pere Marquette was below \$25,000,000; and Mr. Freeman's for the Michigan Central was about \$42,000,000.

Under objection of incompetent and irrelevant.

During entire assessment there was an effort by Freeman and Sayre to secure assessment of those properties at or near the figures mentioned. Mr. Freeman stated in my presence that the power of these great corporations could not be neglected.

Under objection of incompetent and irrelevant.

An article appeared in the Detroit Free Press picturing Mr. Sayre as the low valuer on the board. I was subsequently charged by Freeman and Sayre with having given the interview. They told me if I had, they would take my head off. And I told them if I told all I knew a great many people would not be resting as well as they were. They then shook hands with me and said they would let the matter drop.

952 Under objection of incompetent and irrelevant.

Mr. Sayre appeared very angry when he talked with me. After I made the statement that if I told all I knew a great many people would not be resting as well as they were, Mr. Freeman said: "We ought not to blame this man for the appearance in public of all the statements with reference to the board since so much has been printed." Mr. Sayre said, "I am content to let this matter drop right here."

Cross-examination:

The tentative figures spoken of, aggregating \$273,000,000 included only railroad companies and a union depot company. They are in my handwriting in the book read from.

This is the only authentic record and is part of the files of the board of assessors. It is a collection of summary sheets, giving the cost of reproduction, Cooley's present value and Adams' non-physical value of each road.

The figures were put on it in the presence of the board in session. I had previously made computation of Michigan Central property, but had not fully worked out the plan as described today, nor reached a judgment of a proper valuation.

The \$60,000,000 on Michigan Central was result of the combined opinion of the members of the board; not reached on my suggestion, but approximated closely my suggestion made after mature deliberation. I made recommendations as to every road before these tentative figures were made up. They do not in all cases approximate my recommendation.

The board or members gave consideration to the stock and bond plan, capitalization of earnings, and appraisals supplemented by capitalization of net corporate surplus. They considered many different plans and the results of the different plans, the history of the different properties and other considerations, which had
953 a bearing on the proper valuation, were placed before the board.

The calculations resulting in figures prior to assessment in 1902, were not principally made by me. Each commissioner made figures. The facts were principally adduced by me and information on specific points was taken by me from reports in the presence of the board.

I made no computation which led to placing a valuation of 55 millions on the Lake Shore. The question of the meaning of section eight, act 173, was the subject of discussion before the 55 million dollars was fixed for Lake Shore and continued afterwards. I think some of the figures were made the subject of a vote; no record was kept.

These figures were amended before the final roll was signed. This list was completed about Dec. 11th, and the roll was signed on Saturday, the 13th, within two days of the time the tentative list was prepared. Whatever amendments were made were between December 11th and 13th.

In arriving at the percentage for capitalization on the Michigan Central and Pere Marquette I was influenced by the maintenance account in the reports from year to year. I was influenced in Pere Marquette by the fact that high renewals were not kept up.

I made allowance for the fact that the company had been increasing its operating account since its organization. I examined the maintenance account. Used the same percentage on the Michigan Central and Pere Marquette; made allowance for the difference in the systems in the operating account, assuming a 70 per cent. ratio on the Michigan Central.

Only a few of the considerations leading to adoption of 70 per cent. are stated in testimony. In addition to those, the Michigan Central is better than the average road in the United States; better kept up and operated; the average gross earnings in U.S. 954 are \$7,000 a mile; on Michigan Central they are \$11,000; the average operating expense for all roads in the U. S. between 64 and 65 per cent. in the year named.

In the figures presented to the board in 1902 I made computation on ten and five year averages; didn't recommend the adoption of either; I haven't used any period to be guided entirely by it. The average is higher using five years instead of ten; and also below present earnings. Before you could reach a conclusion you should know what the figures were for ten years.

I have been influenced by figures for twenty, ten, five and three years, and present earnings. I do not consider my system better than any other suggested in this case; there are others equally as good. My method involves the application of all possible methods and rules that can be applied.

With proper application, all methods suggested in this case would produce as correct results as mine. I don't say where we differ in results the other methods are improperly applied; the different results are from a difference in judgment. So far as my judgment

and Prof. Adams' were influenced by the same considerations, I do not think we differed.

The valuation I make is that finally arrived at in my work for the board of assessors, based on facts and information obtainable at the time when the future with reference to the Pere Marquette especially was a mere guess. During the two years of active operations since, the guesses of 1902 have become realities or unrealities.

If I were to fix the value on these properties as of April 14, 1902, based on what I have learned since 1902, I would amend the figures given here. In valuing the properties I have placed myself in 1902 and used only the information then available, with the same guesses as to the future by a study of the past used then.

954a Railroad Assessment of 1903.

Mr. WYKES: I produce the assessment roll of the State board of assessors for the year 1903, and offer the same in evidence.

Mr. BUTTERFIELD: We object to it as incompetent and irrelevant.

Mr. WYKES: I read from the roll the names of the railroad companies assessed and the values placed upon them after review or the values as reviewed.

Ann Arbor Railroad Company.....	\$7,600,000.
Arcadia & Betsey River Railway Company.....	75,000.
Au Sable & Northwestern Railroad Company.....	150,000.
Boyer City & Southeastern Railroad Company.....	292,000.
Chicago, Kalamazoo & Saginaw Railway Company...	510,000.
Chicago, Milwaukee & St. Paul Railway Company.....	3,650,000.
Chicago & Northwestern Railway Company.....	14,000,000.
Cincinnati Northern Railroad Company.....	425,000.
Cleveland, Cincinnati, Chicago & St. Louis Railway Company, operating Cincinnati, Wabash and Michi- gan Railway Company.....	1,000,000.
Copper Range Railway Company.....	2,800,000.
Crawford & Manistee River Railway Company.....	20,000.
Detroit & Charlevoix Railroad Company.....	450,000.
Detroit & Mackinaw Railway Company.....	4,100,000.
Detroit Southern Railroad Company.....	800,000.
Detroit, Toledo & Milwaukee Railroad Company.....	1,500,000.
Detroit & Toledo Shore Line Railroad Company.....	200,000.
Detroit Union Depot & Station Company.....	1,600,000.
Duluth, South Shore & Atlantic Railway Company....	11,000,000.
East Jordan & Southern Railroad Company.....	200,000.
Escanaba & Lake Superior Railroad Company.....	1,200,000.
Fort Street Union Depot Company.....	1,900,000.
Grand Rapids & Indiana Railway Company.....	11,000,000.
Muskegon, Grand Rapids & Indiana Railway Com- pany.....	750,000.

Traverse City Railroad Company.....	250,000.
Grand Trunk Western Railroad Company.....	13,000,000.
954b Chicago, Detroit & Canada Grand Trunk Junction.....	1,650,000.
Cincinnati, Saginaw & Mackinaw Railroad Company leased to the Grand Trunk Railroad Company of Canada	750,000.
Detroit, Grand Haven & Milwaukee Railway Company.....	5,900,000.
Michigan Air Line railway, leased to the Grand Trunk Railway Company of Canada.....	550,000.
St. Clair Tunnel Company.....	1,575,000.
Toledo, Saginaw & Muskegon Railway Company.....	650,000.
Hecla Belt Line Railroad Company.....	40,000.
Hecla & Torch Lake Railroad Company.....	350,000.
Huron & Western Railroad Company.....	50,000.
Lake Shore & Michigan Southern Railroad Company	8,750,000.
Detroit & Chicago Railroad Company.....	230,000.
Detroit, Hillsdale & Southwestern Railway Company..	700,000.
Detroit, Monroe & Toledo Railroad Company.....	3,720,000.
Fort Wayne & Jackson Railroad Company.....	600,000.
Kalamazoo, Allegan & Grand Rapids Railroad Company.....	1,200,000.
Kalamazoo & White Pigeon Company.....	800,000.
Northern Central Michigan Company.....	900,000.
Sturgis, Goshen & St. Louis Railroad Company.....	100,000.
Lake Superior & Ishpeming Railroad Company.....	1,400,000.
Lewiston & Southeastern Railroad Company.....	30,000.
Manistee & Grand Rapids Railroad Company.....	500,000.
Manistee & Luther Railroad Company... ..	150,000.
954c Manistee & Northeastern Railroad Company....	1,500,000.
Manistique, Marquette & Northern Railroad Co	750,000.
Manistique Railway Company.....	250,000.
Marquette & Southeastern Railroad Company.....	450,000.
Mason & Oceana Railroad Company.....	75,000.
Michigan Suburban.....	125,000.
Minneapolis, St. Paul & Sault Ste. Marie Railroad Company	5,500,000.
Mineral Range Railroad Company, and Hancock & Calumet Railroad Company.....	1,800,000.
Munising Railway Company.....	650,000.
Michigan Central Railroad Company.....	32,175,000.
Battle Creek & Sturgis Railroad Company.....	290,000.
Bay City & Battle Creek Railroad Company.....	150,000.
The Buchanan & St. Joseph River railroad.....	10,000.
Canada Southern Bridge Company.....	300,000.
The Detroit & Bay City Railroad Company.....	4,500,000.

Detroit, Delray & Dearborn Railroad Company.....	50,000.
Detroit Manufacturers Railroad Company.....	100,000.
Grand River Valley Railroad Company.....	2,000,000.
Jackson, Lansing & Saginaw Railroad Company.....	6,000,000.
The Kalamazoo & South Haven Railroad Company...	325,000.
Michigan Air Line Railroad Company.....	2,000,000.
The Michigan, Midland & Canada Railroad Com- pany.....	100,000.
Toledo, Canada Southern & Detroit Railway Co.....	7,500,000.
North Park Bridge Company.....	50,000.
Onaway & North Michigan Railroad Company.....	18,000.
Pere Marquette Railroad Company, operating the prop- erty of eight following companies :	
954d Bay City Belt Line Railroad Company, Benton Harbor, Coloma & Paw Paw Lake Train Railway Company, Grand Rapids, Belding & Saginaw Railroad Com- pany, Grand Rapids, Kalkaska & Southeastern Railroad Company, Milwaukee, Benton Harbor & Columbus Railroad Company, Saginaw, Tuscola & Huron Railroad Company, Sault Ste. Marie Railroad Company, South Haven & Eastern Railroad Company,	
Valuation	37,500,000.
Pontiac, Oxford & Northern Railroad Company.....	1,000,000.
Port Huron & Southeastern Railway Company.....	30,000.
Quincy & Torch Lake Railroad Company.....	275,000.
Rapid Railroad Company.....	86,000.
Sault Ste. Marie Bridge Company.....	400,000.
St. Joseph, South Bend & Southern Railroad Co. leased to the Indiana, Illinois & Iowa Railroad Com- pany.....	300,000.
Toledo & Monroe Railroad Company.....	375,000.
Traverse City, Leelanau & Manistique Railroad Com- pany	200,000.
Wabash Railroad Company.....	4,600,000.
Wisconsin Central Railway Company, operating Goge- bic & Montreal River railroad.....	380,000.
Wisconsin & Michigan Railway Company.	225,000.

To this assessment is attached the following certificate :

"STATE OF MICHIGAN, {
County of Ingham, } ss :

954e We do hereby certify that we have set down in the above
assessment roll, all the property of railroad companies, express
companies, union station and depot companies, stock car, refrig-

erator and fast freight line, and other car companies liable to be taxed in this State, according to our best information, and that we have estimated the same at what we believe to be the true cash value thereof, and that we have assessed the taxes thereon at the average rate of taxes for State, county, township, school, municipal, and other purposes, levied, throughout the State, during the year 1903, as determined by us.

In witness whereof we have signed this certificate at the State capitol in the city of Lansing, State of Michigan, this 15th day of February A. D. 1904.

ANGUS W. KERR,
WILLIAM T. DUST,
JAMES C. McLAUGHLIN,
Members of the State Board of Assessors
of the State of Michigan."

There is also attached to this roll a certificate after review which sets forth the names of the several railroad companies, the value as originally assessed and the value as reviewed, which is signed by the entire board.

There is also attached the warrant directed to the auditor general and this is signed by the entire board.

955 HARRY C. SNELLING, sworn for complainant.

Direct examination by Mr. BUTTERFIELD :

Mr. BUTTERFIELD : I desire, before proceeding with the testimony, to let it appear that complainant renews objection to the admissibility of any testimony tending to show that the value of the property of this complainant (or any of the complainants in cases in which testimony is permitted by stipulation to be offered, is other or different from the value fixed by the assessment of the State board of assessors, and desires to take all testimony tending to rebut the testimony offered by the defense on the subject of the valuation of railroad property without waiving its objection, and without prejudice to its right to insist that all such testimony shall be struck out.)

I reside at White Plains and am transfer agent for Michigan Central Railroad Co., with headquarters in New York ; as such agent, transfers of stock and registrations of bonds are made by me or under my direction ; I have here the transfer books of the Michigan Central. The total number of shares transferred during the year ending August 15, 1902, was 9,471 (at par value \$947,100) ; of these 7,466 (par value \$746,600) were transferred to brokers or brokerage houses.

168,143 shares of Michigan Central stock (par value \$16,814,300), now stand in the name of the New York Central railroad ; being transferred prior to June 30, 1901, as follows :

In 1898.....	159,349 shares
In 1899.....	3,439 shares
In 1900.....	1,652 shares
In 1901.....	3,703 shares

Total..... 168,143 shares

Exhibit 1 of May 19, 1904, is a circular issued by the New York Central to stockholders of the Michigan Central, offering to
956 purchase their stock on terms therein expressed (offer in evidence under objection of irrelevant).

This offered, on surrender of shares of the Michigan Central stock, to pay \$115 a share in gold bonds of the New York Central & Hudson River Railroad Co. bearing $3\frac{1}{2}$ per cent., payable semi-annually, maturing February 1, 1998, the shares to be held in trust as collateral security for the bonds.

The aggregate outstanding capital stock of the Michigan Central is, and in 1902 was, \$18,738,000.

I have in my office the register of Michigan Central registered bonds; the total amount of first mortgage bonds registered on May 1st, 1904, was \$3,436,000, the amount in names of savings banks being \$2,370,000.

(Mr. BUTTERFIELD: I offer in evidence such portions of the bond register and stock transfer registers as embrace the testimony witness has given. * * * I want to show transfers made during year you adopted as a test of market value—ending August 15, 1902.)

Cross-examination by Mr. KNAPPEN:

The transfer record does not show the price at which stocks and bonds were sold; it is not a correct record of sales; very often sales made in Wall street do not come to the office to be transferred. My only knowledge of a transaction comes when an assigned certificate is presented for transfer on the books.

The 9,471 shares transferred for year ending August 15, 1902, were to the following persons:

957

Date.	Name.	Amount shares.
1901.		
Aug. 30.	Anna E. Hughes.....	527
Sep. 26.	Louis Joseph Thal.....	100
Oct. 28.	Jesup & Lamont *.....	500
29.	Caroline Cavers.....	13
31.	John Wallace & Co.*.....	2
31.	Edward J. Bell.	1
31.	Thomas L. Manson & Co.*.....	100

Nov.	4.	John Wallace & Co.*	3
	6.	George Leask & Co.*	50
	6.	Matilda P. Shattuck.....	13
	6.	Edward Z. Shattuck ...	10
	6.	Lorraine M. Shattuck.....	10
	6.	Matilda P. Shattuck †.....	10
	6.	F. J. Lisman	200
	7.	Clarence H. Wildes*	100
	7.	John Wallace & Co.*	50
	8.	Warren G. Smith	100
	8.	F. J. Lisman	200
	11.	James Joy	100
	12.	Frederick K. Trowbridge.....	10
Dec.	5.	Agelaide Kennedy, William Alexander and Rich- ard Dandy (jointly)	341
		Bossevain & Co.*	30
		A. Sartorius*	10
		Edward J. Bell	1
		John Wallace & Co.*	127
		E. W. Bernbaum	147
		J. & W. Seligman & Co.*	52
		Blake Bros. & Co.*	5
Dec.	6.	Matilda W. Bruce.....	26
		John Wallace & Co.*	50
		A. M. Kidder & Co.*	11
Dec.	7.	Bossevian & Co.*	10
Dec.	9.	Bossevian & Co.*	30
		Edward B. Weeks.....	13
Dec.	10.	J. & W. Seligman*	118
	11.	John Wallace & Co.*	30
	16.	John Wallace Co.*	3
	17.	Charles Minzesheimer & Co.*	100
	18.	J. & W. Seligman & Co.*	30
		A. J. & I. A. Bach.....	5
Dec.	20.	C. S. Treadway	10
	21.	August Belmont & Co.*	10
	31.	J. W. Bowen & Co.* ..	9
		J. & W. Seligman & Co.*	1,011
1902.			
Jan.	9.	Alice Mary Davis	10
		George W. Bissell.....	90
Jan.	14.	N. W. Halsey & Co.*	10
	15.	Rev. Wm. Reed Thomas.....	5
	16.	Clarence H. Wildes*	200
	17.	John Wallace & Co.*	34
	18.	McKinley & Sherman*	100
	20.	R. L. Day & Co.*	13
	28.	L. J. Solomon*	10
	30.	H. P. Goldsemidt & Co.* ..	30

Feb. 15.	M. Taylor Pyne.....	100
	Herzfeld & Stearn *.....	20
	Kate A. Mead	2
	Anna M. Moulton	3
	Abby Moulton.....	3
	Amelia A. Moulton.....	4
Feb. 11.	John Wallace & Co.*.....	7
27.	Charles H. Babcock and Henry R. Wood †.....	8
Mar. 5.	Vermilye & Co.*.....	50
10.	Arthur L. Leland & Co.*.....	25
11.	John Wallace & Co.*.....	15
12.	John Wallace Co.*	10
14.	John Wallace Co.*.....	25
19.	John Wallace & Co.*.....	7
24.	Winslow, Lamar & Co.*	1,000
27.	Kate Harrison.....	3
	Madeline Hopkins	3
	Leslie Muller.....	4
	Zenas E. Newall	10
Apr. 1.	Louisa S. Jelly	4
4.	John Wallace & Co.*.....	4
7.	William K. Gillett.....	100
8.	Theodore Rosewald	100
9.	Carrie P. Parker †.....	5
May 9.	John H. Davis & Co.*	100
	Dominick & Williams *.....	100
	Kingsley, Mabon & Co.*	100
	Wolf Bros. & Co.	400
	McIntyre & Marshall *	105
	Charles Minzesheimer	30
	Charles Minzesheimer & Co.*.....	30
	J. & W. Seligman & Co.*	1
	Nathan H. Heyman.....	10
	John Wallace & Co.*	107
	Edward J. Bell	4
May 12.	Blake Bros. & Co.....	100
	Frederick E. Chapin.....	50
	George Howard.....	50
May 13.	Bossevain & Co.*.....	20
	Herzfeld & Stern *	10
May 14.	John Wallace & Co.*	35
21.	Simon Uhlmann	100
23.	Edward Sweet & Co.*.....	500
28.	Counselman & Day *.....	100
27.	Florence A. Barcow.....	7
28.	Charles Minzesheimer & Co.*.....	100
29.	John H. Davis & Co.*	100
Jun- 2.	H. P. Goldschmidt & Co.*.....	1
14.	J. H. Bache & Co.*.....	25

19.	John Wallace & Co.*	20
20.	William K. Gillett	200
23.	John Wallace & Co.*	5
24.	John Wallace Co.*	1
25.	L. J. Solomon *	10
30.	Brand, Jones & Co.*	20
	J. & W. Seligman & Co.*	400
	C. I. Hudson & Co.*	100
	Perry Townsend	100
	S. V. White & Co.*	100
	Fahnestock & Co.*	400
July 10.	Gordon Tweed	10
	Miss Brenda Tweeda	10
July 18.	Florence A. Barcow	14
	Edward H. Shell †	14
	Edward H. Shell ‡	14
July 19.	Chas. D. Smith	8
Aug. 6.	H. P. Goldschmidt & Co.*	33
	John Wallace & Co.*	9
Aug. 15.	H. P. Goldschmidt & Co.*	10

* Broker.

† Trustee or executor.

‡ Guardian.

958 The transfer books show from whom shares were transferred; the New York Central Railroad Co. has transferred none of those purchased between 1898 and 1901, and still holds 168,143 shares.

Redirect examination :

Exhibits 2 to 6 inclusive, of May 19, 1904, are the published annual reports to stockholders of the New York Central & Hudson River Railroad Co. for each of the years ending June 30, 1898 to 1902, inclusive.

Recross-examination :

I do not know whether in giving the number of shares (7,466) transferred to brokers, I included those where I was not sure they were brokers.

The New York Central controls the Michigan Central (and in a measure its organization), through the ownership of its stock; the Michigan Central, a New York Central and Vanderbilt road. Have a list of registered bond holders of the Michigan Central $3\frac{1}{2}$ per cent. first mortgage (amount registered \$3,436,000).

There are other registered issues.

The books show where the registered bonds of the Michigan Central secured by mortgages on subsidiary companies are held. There

is an issue of \$700,000 secured on the Kalamazoo & South Haven—all registered; an issue of \$2,600,000 (4 per cent.) Air Line bonds, of which \$967,000 are registered; a \$2,000,000 issue secured on the Jackson, Lansing & Saginaw (3½ per cent.) of which \$945,000 are registered; a \$725,000 issue secured on Terminal railroad, (4 per cent.) of which \$134,000 are registered; a \$4,000,000 issue, secured on Detroit & Bay City (5 per cent.)—a good part of which, but don't know how many, are registered. Have not here a list of transfers of registered bonds 1900 to 1902, and nothing to show transfers at that time.

959 JAMES MARWICK, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside in New York city; have been practicing as an accountant for upwards of 13 years, during which I have had occasion to examine six or seven railroads, and make for them half-yearly reports.

They include the Toledo, St. Louis & Western; Fitchburg (each of which I reported for 5 years); Pittsburgh, Shawmut & Northern (which I reported for one year); Ohio Southwestern (where I reported on administration of receivers); Memphis & Charleston railroad (which I reported for re-organization committee). Prior to this, in Scotland, I was assistant auditor of the North British railroad for 2 years, and some other small railroads. The reports covered the accounts, administration and operation of the roads. I am retained by the Minneapolis, St. Paul & Sault Ste. Marie to make half-yearly reports on their accounts. The purpose of investigation was to satisfy the directors that the companies were properly managed and that any surplus, shown in accounts, was such as might be distributed in dividends.

I have examined the reports for 1902 and 12 years previous of the Michigan Central Railroad Co. and the market quotations of its stock in year ending August 15, 1902.

(Under objection by Mr. Knappen *that* incompetent and that it does not appear that witness has made such examination as to make his testimony on the subject competent.)

I am satisfied in my own mind that the quotations for the year ending August 15, 1902, are not such as to permit a fair estimate being made of the actual intrinsic value of the stock.

I have endeavored to inform myself particularly to enable me to express opinion as to the intrinsic value of the Michigan Central stock in 1902.

960 (Under objection of incompetent and hearsay, that it does not appear that witness has competent knowledge of the subject.)

I would value the stock in neighborhood of par for 1902; rather than over.

Q. Is it a fact that investors in securities of the class of the Michigan Central are unwilling to receive 3.5 per cent. on their investment, if they are to be taxed on it?

Mr. KNAPPEN: I object to that question as incompetent, it does not appear that witness is competent to express an opinion on the subject, or that he has sufficient data upon which to base any such opinion.

A. I am satisfied that the investors would not accept 3.5 per cent. return on their money if they were subject to be taxed.

Q. Assume that the value of a railroad company's property is to be determined by a process involving computation of an annuity at a certain rate of interest and state whether the rate of interest should be enlarged to the extent of adding the tax rate in the locality?

A. I do not approve of that system of valuing property; if valuation be made in that manner, the rate of return from investment should be increased so as to cover the tax and still yield a reasonable return to investor.

Cross-examination by Mr. KNAPPEN:

In 1902, there were \$21,275,000 Michigan Central bonds outstanding. I do not know what prices the purchasers of them paid; they may have paid upwards of par; I do not know where they are held; six-sevenths may be held by people in whose hands they are subject to taxation.

I do not consider that the market quotations for 1902 fix the value of a bond; the value of that or of stocks might be inflated.

In 1902, the Baltimore & Ohio, prior lien $3\frac{1}{2}$ per cent. bonds, varied between 93 and 97.25; the first mortgage 4 per cent., $99\frac{1}{8}$ to 961 105;

The Pittsburgh Junction & Middle division, prior liens, $3\frac{1}{2}$ per cent. 89 to 93.5;

The Central Pacific, $3\frac{1}{2}$ per cent. bonds, (of great many millions) were—

	High.	Low.		High.	Low.
January	87 $\frac{1}{2}$	87	July.....	89 $\frac{1}{2}$	88 $\frac{1}{2}$
February	89	87 $\frac{1}{2}$	August	83 $\frac{1}{2}$	88 $\frac{1}{2}$
March.....	89 $\frac{1}{2}$	88 $\frac{1}{2}$	September.....	89 $\frac{1}{2}$	87 $\frac{1}{2}$
April.....	89	88 $\frac{1}{2}$	October.....	88	85 $\frac{1}{2}$
May.....	89	88 $\frac{1}{2}$	November.....	87	86
June.....	88 $\frac{1}{2}$	87	December....	85 $\frac{1}{2}$	84 $\frac{1}{2}$

The New York Central had \$100,000,000 of $3\frac{1}{2}$ per cent. bonds maturing in 1997, which in 1902 were selling at high 109.5 and low 104;

The Pennsylvania railroad, convertible gold bond-3½ per cent., maturing 1912, were selling in May, 1902, at 103½ to 104½, high and low price for the balance of the year was 110½ to 103½;

The New York Central bonds were largely held by insurance companies.

In 1902, the Illinois Central 3½ per cent. bonds sold at high 105½ and low 104;

The Wisconsin Central 4 per cent. bonds, maturing 1949, between 88 and 94;

The Chicago & Northwestern 3½ per cent. bonds of 1987, 109½ and 111;

The Chicago, Milwaukee & St. Paul, 3½ per cent., general mortgage bonds, due 1989, amount \$10,396,000, 104½ and 104½;

The New York, New Haven & Hartford, 5 per cent. bonds of 1907, (don't know whether it had any 3½ per cent. bonds in 1902) were selling in 1902 at about 135;

The Lake Shore & Michigan Southern, 3½ per cent., 1998 bonds, fluctuated between 92 and 98. They would at 92 net the investor a trifle over 3½ per cent.

In the prices given, interest is accrued in the price, the amount depending on the time of year. I have made no computations on what the weighted average was or how much it netted on an average during the year. I know what the Michigan Central shows in its reports as earnings above operating expenses, the net earnings I haven't confined strictly to Michigan; I have taken the whole road; understand that about 60 per cent. of the total mileage is in Michigan, on track mileage basis.

I have made no computation to show Michigan's part of the road as against entire system on a track mileage basis.

The road is situated in Michigan, Illinois, Canada and New York. Have taken it as a whole, and haven't separated the taxes into the several jurisdictions.

In 1898, the \$70,000 in permanent improvements on account of second track is all I would consider as permanent improvements.

I haven't checked the reports for 1898 with the Interstate Commerce Commission requirements, to see how much would come within and how much without its classification. I have taken the published reports to stockholders.

I judge from a general examination of the statement to stockholders whether they have made permanent improvements.

Year.	Net earnings.	Operating expenses, per cent., inc. taxes.	Permanent improvements.
1898	\$3,500,176 73	75.08	\$70,000
1899	3,499,945 75	77.43	65,000
1900	3,500,000 00	79.08	80,000
1901	3,744,300 00	79.75	210,000
1902	3,577,578 75	81.22	Nothing

These items are all taken from the reports to the stockholders. The Michigan Central has been increasing from 1898, both in revenue and expenses. The net earnings of 1902 are less than in 1901, \$77,000 more than in 1900, \$78,000 more than in 1899, \$77,000 more than in 1898, and about \$170,000 more than 1897; being about \$70,000 larger than the average for five years before.

According to the accounts, the net dividend earned by the Michigan Central after allowing upwards of 80 per cent. of gross receipts for operating expenses and taxes, was a shade less than 6 per cent. in 1902; the operating ratio, excluding taxes was 78.33 per cent. For 1902, I found nothing charged to operating expenses that properly belonged in extensions or improvements; they were making up for past depreciations; this I gather from report to stockholders.

(Under objection of irrelevant.)

The Lake Shore & Michigan Southern stock in 1902 sold for about 300 or 330; in 1901, between 200 and 300. Its net earnings in 1902 were \$8,460,228; it paid a 7 per cent. dividend in 1902 and earned about 6½ per cent. in addition.

Its operating ratio for 1902 was 70 per cent.,—the great bulk of its stock is held by the New York Central.

That the amount expended in 1902 on the Michigan Central was necessary to make up depreciations of previous years is an inference from a study of the figures for ten years. From this study I can tell that the property was allowed to depreciate from 1894; this is based entirely on the figures in the report.

Redirect examination :

Q. Explain how you are able to judge whether expenditures charged to operation are properly charged ?

A. I have taken the statements of the equipment and mileage made by engines and cost of repairs; I find rate of repair on engines, per engine mile in 1898, to be 2.86c.; in 1897, 2.89c.; 1895, 2.51c.; 1894, 2.92c.

I know the motive power cannot be maintained at any such rate as that to keep up the total for the 9 years from 1894 to 1902, and that is only 4c. a mile. The average per engine, per year, for those 9 years is only \$1,331, and renewals on 461 locomotives averaged 16.4 during that period; this 16.4 would have been much less but for the purchase in 1901 of 53 engines and in 1900 of 34. The average expenditure on maintenance and renewals of passenger cars during that period was \$512, of freight cars \$57.30.

I base my conclusions on my knowledge of railroading, forming my opinion from comparisons made with expenditures on other roads, consultation with engineers of different roads, and experience in motive power department and shops.

Mr. KNAPPEN : So far as testimony based on statement of engineers and others, we object to it as incompetent.

The renewals appear to be inadequate; they average, per mile, in 1894, 126; 1895, 143; 1896, 232; 1897, 324; 1898, 263; 1899, 257; 1900, 146; 1901, 227; 1902, 232. An average of 8,208 tons of rail were laid during each of the 9 years referred to, this should be about 15,000 tons.

(Under objection of incompetent and irrelevant.)

In the examinations testified to, I always reported to directors whether the property had been maintained both as to roadway, structures and equipment; in this analysis of the Michigan Central report, I am applying knowledge obtained in those examinations. From 1887 to 1894 there were no new fences built.

(Under objection of incompetent, and that witness has not shown sufficient knowledge upon which to base an opinion.)

My opinion from an examination of the accounts, is that in 1894 the road was allowed to depreciate in order to enable the company to pay the dividend.

Any excess of expenditure charged to operation from 1898 to 1902 over normal operating ratio should be applied to the restoration of what was omitted in the property prior to 1898.

The company should maintain the property so, that at the end — a given period it is as good as it was at the beginning, and it may have to improve it to meet competition. If money expended in improvements will not bring in additional revenue, I consider it a proper charge to operating expenses, and do not think you should
965 capitalize any expenditure that does not bring in some return, otherwise it is only a question of time when road will go into the hands of a receiver.

(Under objection of immaterial.)

The custom in England has been to capitalize everything they could justify in any way, *e. g.* if a steel is substituted for wooden bridge, they charge the difference in cost to capital, while it really does not bring any return to the company.

The result is an enormous capitalization. I think expenditure for the renewal of locomotives should be made equally, so no exceptionally heavy charge will occur in any one year; in each year sufficient should be charged to operating expenses to gradually improve the equipment so as to meet the conditions of the time; ten years ago engines might have been comparatively light; during that period a fund should have been set aside to replace the old engines with heavier ones, this is true in all departments of roadway and equipment.

Recross-examination:

Increased traffic increases gross earnings and means larger engines.

Freight traffic has been increasing in the last few years. The

general trend is an increase with the density of population; increase in traffic means additional equipment.

The more equipment used, the greater the earnings, unless rates are reduced or expenses increased; if you have stability of rates and expenses, the immediate effect of increased expenditure for equipment is an increase in gross earnings.

The figures in reference to maintenance of motive power, etc., are gathered from the reports to stockholders. In answering questions regarding bond issues, referred to the Financial Review. Dur-

966 ing the last ten years (to 1903) the total amount charged to capital on account of new equipment, has been 1,050 freight cars; whatever else has been expended for new equipment during the last ten years, has been paid out of operating expenses. Renewals of locomotives average 16.4 per year, which is charged to operating expenses. Engines have not been increased in the past ten years; freight cars have been increased 845 (in addition to 1,050 added in 1903) and the passenger cars, 17.

The increase was required to take care of depreciation in other freight and passenger cars and was charged to operating expenses. I base all my criticism upon the stockholders' reports.

(Mr. KNAPPEN: I move to strike out the witness' testimony on proposition that market quotations of sales of Michigan Central stock and bonds do not permit a fair judgment of the value, and as to his opinion of the valuation of the stocks and bonds, and as to what return investors are willing to take on Michigan Central property, as incompetent, and that witness has not shown himself competent to give that opinion.)

Redirect examination:

Improved motive power enables handling the same equipment and traffic at less cost. In the last five years, it has been necessary for railroads to increase motive power to meet competition whether there has been an increase in traffic or not.

967 CONSTANT A. ANDREWS, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside in New York, and am president of United States savings bank. Savings banks in New York are exempt from taxation upon investments in railroad bonds.

No cross-examination.

968 CHARLES F. COX, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside in New York, and am treasurer of the Michigan Central Nickel Plate; Big Four, and about 35 other railroad companies; am

president of the Canada Southern ; and vice-president, secretary and treasurer of the Lake Erie & Western.

I have been treasurer of the Michigan Central over 5 years, as such, receive all funds, have charge of negotiable paper, make all payments, transfer the stock and register the bonds and keep statistics of the company.

(Witness shown Exhibit 1, May 19, 1904.)

(Under objection to all this class of testimony as immaterial.)

All the stock of the Michigan Central owned by the New York Central was acquired on the terms expressed in that circular, at the price therein specified ; the stock being exchanged for the obligation of the New York Central, secured by the stock itself, at the ratio of 115 to par.

The obligation is a collateral trust bond of the New York Central, without security except the deposit of the stock acquired by means of the bond. The Michigan Central stock held by the New York Central Co. is deposited with a trust company as collateral for the support of the bonds.

Examined the records of sales of stocks and bonds to find the prices those collateral trust bonds were bringing in the market.

The highest price they ever sold at was 102.25 (since 1902), and the lowest, (in 1898, soon after original issue) was 91.25 ; the present price is about 89.

The high and low price from the Financial Review, was :

Date.	High.	Low.	Date.	High.	Low.
1901.			1902.		
January.....	97½	97½	January.....	97½	95½
February.....	97	96	February.....	95½	94½
March.....	96½	96	March.....	94½	94
April.....	96½	94	April.....	95½	94½
May.....	95½	94	May.....	95	94½
June.....	95½	94½	June.....	95	94½
July.....	96½	95½	July.....	95½	94½
August.....	95½	95½	August.....	94½	93
September.....	95½	94			
October.....	95½	.....		
November.....	96	95½			
December.....	96½	96½			

* All January sales of the coupon bonds ; very few transactions in them.

Registered bonds generally sell about at a point below others.

As given in the Commercial and Financial Chronicle, quotations on Michigan Central stocks are as follows :

Date.	High.	Low.	Date.	High.	Low.
1901.			1902.		
October	140	116	January.....	180	138
November.....	180	128	March.....	188.25	138
December	170	156	April.....	192	138
			May.....	178	133
			June.....	175	128
			August.....	164.75	124

(Under objection of incompetent.)

Those quotations had no relation to the stocks' real value; my reasons for this statement are: 1st, what I know about the earning capacity of the property; 2nd, what I know about the probable market for the whole or any considerable bulk of the stock, of the customs of Wall street, and the possibilities, with reference to making market prices for stock when only a small amount is on the market.

(Under objection of incompetent, and that witness does not appear competent to give the market value of the stock.)

In my opinion the stock as a whole had no value above par.

Have been president of the Canada Southern over four years, previously vice-president for many years, and think I am competent to express an opinion of value of Canada Southern stock in 1902. My opinion is that it was not worth over 55.

I have a decided opinion that it is proper to charge to
 970 operating expenses sufficient sums to maintain the property
 against depreciation and keep abreast of technical develop-
 ment.

When we charge what are called betterments to operating expenses, we pay for them but once; if we pay for them out of bonds, considering interest, we pay for them two or three times; that would be an unfair tax on the public and unfair charge on the stockholders' revenue.

There is a fallacy in the word "permanent" in connection with "betterments;" the operation of a railroad is undergoing so many and rapid changes that it is impossible to say a thing is permanent. We might pay for a betterment today in fifty year bonds; before they had run half of their course, the betterment might become absolutely useless, *e. g.* through a change of motive power. The old method was to patch up engines, making them live as long as you could, and, to a certain extent, calling it permanent improvements, and paying for it out of capital.

The present method is different. We now work our engines as far as they will go and then dispense with them; there is abundant evidence that by the present method, the life is not over five years, and it would be absurd to pay for that engine, though it added to

the number of locomotives with a long term bond. Every addition to facilities immediately raises the percentage of cost of renewals.

We are not justified in considering any betterment as permanent and chargeable to capital, unless it is going to add permanently to earning capacity. The great mass of charges, which railroads are now making, to operating account, and calling betterments, do not increase the earning capacity, *e. g.* on the Michigan Central a large sum of money every year is spent in what are technically called betterments, but there has been no material variation in 20 years in its ability to pay to its stockholders. The tendency of the growth of the country through which a railroad runs is to raise the unit of everything connected with its work, and unless it can live up to the increased units, the former earning capacity can not be maintained. We are obliged to carry heavier loads per train and per car, which necessitates raising the unit of construction on the roadway and everything connected with it; a large part of our betterments result merely in raising total scale of operating cost and consequently keeping the earning capacity about level.

Cross-examination by Mr. KNAPPEN:

It costs more to reproduce the equipment in its present improved condition, and by charging to operating expenses, the cost of bettering equipment, to keep abreast of railway conditions, we have a more costly equipment and the investment is larger each time. The answer, to effectiveness of that argument, is that we are obliged to do a larger amount of business to obtain a given amount of net earnings.

As measured by gross earnings, the Michigan Central does a larger business year by year, and larger during a five year period, than during the preceding five years. In what I have said, was trying to indicate that the value to the stockholder of his investment would not appreciate in the ratio in which we increase the facilities for doing business. There is an increased amount of investment; Michigan Central earnings have just about held their own for the last 20 years.

There has been a slight lowering in the rate of interest since that time; 20 years ago we would not have thought of trying to float a $3\frac{1}{2}$ per cent. bond. In a moderate degree I think investors are satisfied with a less rate on a safe, permanent investment than they were 20 years ago. Though there has been a slight downward tendency, I think it has been exaggerated largely.

The difference in the last 20 years not far from the difference between a 4 and $3\frac{1}{2}$ per cent. investment; don't know as it is as much as 1 per cent. The value of money has a tendency to be cheaper as population increases; the general drift has undoubtedly been downward.

I doubt whether the decline in the value of money has been out

of proportion to the decline of the earning capacity of money as represented by capitalization of railroads or anything else.

The cost of reproduction, taking everything we use on a railroad, is higher than 20 years ago; everything on the road is of a much more costly grade than 20 years ago.

If the Michigan Central were built today, on the basis of present appliances, it would cost much more than if built 20 years ago with the appliances then in use, and probably much more than appears on the books to be its cost, as we have paid for many changes out of earnings instead of capital. Looked at from the point of building another, the road is, and has steadily grown, intrinsically more valuable than it was 20 years ago; it is each year doing much more actual work, carrying more passengers and freight, and the gross earnings are larger. When I say it does not earn any more, it is by reason of conditions, such as rates and expenses, which prevent making the net, keep pace with the gross, earnings.

For the last two or three years, after charging to operating expenses all we do charge the Michigan Central has earned about 6 per cent.; it has been increasing the net earnings, notwithstanding the practice of charging to operating expenses, the class of betterments, mentioned and has had a steady increase in growth.

The Michigan Central stands conspicuous among Michigan railroads for the high quality of its equipment, track, right-of-way, numerous improvements and the high grade in which the road and its stock is kept up; I know of no other road in Michigan which compares with it favorably in that respect. While there have been years when we let the property run down, taking all the years
973 together, the process of betterment has been steadily going on.

It is a part of the Vanderbilt system of operating roads to bring them to as high a state of efficiency as possible; that idea has been applied to the Michigan Central.

Notwithstanding all this, I don't think the stocks' value has increased at all; I think it has gone to a point where it can't increase. The fact that 17-18s of the stock is owned by the New York Central presents no difficulty in getting at its market value; I think that is the only criterion of the value; if you want to know the value of the total capital stock you should take somebody that is willing to take it all, as New York Central did; they don't need it all to get control, but would like to have it. It cannot, under its trust arrangement, part with any of the stock.

The condition of the bond issued by the New York Central in exchange for Michigan Central stock is that so long as New York Central pays the interest, the stock is the New York Central's property, should it default in payment of interest the bondholder would have recourse to his stock. The bonds bear $3\frac{1}{2}$ per cent. interest and have been selling at about a $3\frac{1}{2}$ per cent. basis; if Michigan Central stock pays a 5 per cent. dividend, the New York Central gets the surplus above $3\frac{1}{2}$ per cent.

There is a distinction between New York Central's buying Michigan Central stock at 115 in money and buying it at par with a bond, it is not as a general thing sold at par; by the bond it paid 115 for the par value of the stock, and agreed, during period covered by the bond, to return to stockholders $3\frac{1}{2}$ per cent. net on principal of the bond; the bonds run until 1948. The bonds are dealt in very freely; the credit of New York Central, as well as value of stock, protects its price.

New York Central at maturity of the bond obligates itself to pay for the stock; the seller, of the stock and bondholder, has no interest in stock except as security for payment of the New York Central's obligation. The market value of the bond would be governed by value of the obligation the same as any other bond, depending on the credit of party issuing, and security underlying it.

The New York Central is placing its promissory notes at par; this bond having the credit of the New York Central and collateral trust of the stock behind it, only sells at 89; which shows that in the public estimation, the value of the bond is only in proportion to the value of the Michigan Central stock underlying it; 89, as the price, is a 4 per cent. par investment. Michigan Central new 1st mortgage bonds, on the market for two years, are selling at about 97, as compared with 89. In 1898, within a few months after these bonds were issued, the market went down to 91; the average value of those bonds in 1898 was probably 95, and on this basis, Michigan Central stockholders during 1898 were willing to take 109 for stock.

975 THOMAS F. WOODLOCK, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside in New York city, being editor of a Wall Street journal for two years, and as such, have supervision of the newspaper, which is especially designed for investors' undertakings; am also a writer; my particular study has been in the direction of railroad matters.

I examined record of sales of stocks and bonds of the Michigan Central Railroad Co. to determine whether the prices of its stock in the year ending August 15, 1902 furnished a fair basis on which to value its entire capital stock; my conclusion was that the sales subsequent to June 30, 1901, were no criterion of the value of any considerable portion of the stock.

My reasons are: The New York Central secured a large majority of the stock, leaving only a relatively small quantity outstanding; the period referred to, was one of great speculative activity, particularly in what are known as, Junior Vanderbilt roads, and resulted in ridiculous quotations, on the Nickel Plate and stock of that character, accompanied by the report that the New York Central was going to pick up all those stocks at fancy prices.

(Under objection of immaterial and irrelevant, and "I understand the question is the market value of the stock.")

As a stock, paying dividends at 4 per cent., but showing no substantial surplus, taking into account the solid character of the system and general connections, I should count Michigan Central stock to be worth from 80 to par to the investor, in default of very special circumstances, which, might or might not exist, according as analysis would show.

Q. What in your judgment is the true basis of valuation of a railroad property and railroad stock?

976 Mr. KNAPPEN: That is objected to as immaterial and incompetent as to the basis of value of railroad stock, and as to basis of value of railroad properties, as incompetent, for the reason that it does not appear that witness is an expert in railroad values independent of stock values.

A. The value of property is based upon its income producing capacity; its power to make return to the owner; in the long run, the value of a stock would depend on the dividend paid.

(Under objection of incompetent, the witness not having shown experience to testify as an expert.)

The cost of reproduction of the property is not a question we would consider in the market.

Q. Would investors in Michigan Central bonds, and railroads of the same class, have been willing, in 1902, to receive $3\frac{1}{2}$ per cent. net return on the investment, if they were to be taxed on it?

Mr. KNAPPEN: We object to that as incompetent, there being no basis, so far as the experience of the witness has been shown, or any data given by him for such determination and the element, if they were to be taxed, so far as shown from the examination of the witness, is purely hypothetical and arbitrary.

A. It is difficult to answer that, except by general statement that people who expected to be taxed on their incomes, and could not escape by ordinary methods, would not buy that kind of bonds.

I know this to be a fact, as I have been asked to advise as to investments, *e. g.* a widow who would be compelled for safety's sake to carry her investments in such form that she would be liable to be taxed; she would need the very best kind of investment, and I have always advised against holding bonds on the ground that if they were going to be taxed, her income would be materially reduced.

977 "Q. Then if a system of valuation of railroad property is to be worked out and applied to the Michigan Central Railroad Company in which the computation of an annuity upon its physical property is to be made at a rate which is the rate that investors in securities of that company are willing to receive as a net return upon the investment, should the rate upon which these securi-

ties sold in the market be increased by the tax rate in the locality where the property is valued?

Mr. KNAPPEN: That is objected to as incompetent and as being purely theoretical without practical basis as shown by any testimony in the case.

A. Certainly."

Q. From your own knowledge, are you able, to say, as a general proposition, that persons or corporations who invest in bonds of a railroad on a basis of $3\frac{1}{2}$ per cent. are exempt from taxation?

Mr. KNAPPEN: That is objected to as not a proper subject of conclusion or expert testimony.

Mr. BUTTERFIELD: I am not asking it as expert testimony, I am asking it as a fact.

Mr. KNAPPEN: It is objected to as purely theoretical and speculative, and I object to it further as immaterial for the purpose of this inquiry.

A. Yes, sir. I point in confirmation to the demand existing for New York city bonds and other similar non-taxable securities. I examined the New York Central reports to determine how much Michigan Central stock was acquired by New York Central, independent of question when the transfer certificate was made, and find the following:

978 Year ending—	Michigan Central stock outstanding.	Acquired by New York Central.	Bonds issued in payment.
June 30, 1898.....	\$18,738,000	\$14,902,100	\$17,137,415
June 30, 1899.....	"	1,225,300	1,409,210
June 30, 1900.....	"	284,400	327,000
June 30, 1901.....	"	402,400	462,000

(Witness gives quotations on these bonds for the first 6 months of 1900, ranging from 94 to $97\frac{1}{2}$.)

Cross-examination by Mr. KNAPPEN:

All bonds, except certain city and State bonds, are taxable in New York. No person would purchase railroad bonds at $3\frac{1}{2}$ per cent. basis, unless he expects to evade taxation, as taxes would eat up more than half of his income. There is always a large class of investors to whom taxation presents no terrors. A great many non-residents of New York I know from my financial business, do not pay taxes on such bonds. Markets are afforded for such bonds by banks and trusts, where taxation is not imposed.

I don't know whether Government bonds are taxable or not; a Government bond, drawing 2 per cent., has for several years sold a

great deal above par, for special reasons entirely connected with circulation. National banks hold a vast majority of the 2 per cents; the last loans were greatly over-subscribed, the great bulk being secured for circulation or deposit. There has, during the past few years been a market for the bonds of a few of the best railroad companies at $3\frac{1}{2}$ per cent. at par.

Bonds of the Pennsylvania, New York Central, Chicago & Northwestern, and I presume Michigan Central railroads, for several years, during that period, were selling to net the investor not more than $3\frac{1}{2}$ per cent.; market was sufficient to take care of the $3\frac{1}{2}$ per cent. bond issues of these roads at par and better, notwithstanding taxation; plenty of good $3\frac{1}{2}$ per cent. bonds have been worth par until within a year or so; assuming it to be a free market, the

979 market for bonds controls their price.

A bond is worth what it will bring in a free market under normal conditions. And bonds of the roads mentioned sold at par or better during that period, and might fairly be counted as worth par.

Situations of investors in matters of taxation vary all over the country; I *presume*, in some jurisdictions taxation is two or three times higher than in others, and in some, financial securities are taxed lower than other property, and these changes exist all over the country. A bond is worth less to a person who is going to be taxed on it than to one that isn't.

A bond is worth substantially what it sells for in the free market; a $3\frac{1}{2}$ per cent. bond is not worth par today; stocks are greatly depressed over two years ago; the value of a stock is not fixed by its market price at a given time; in valuing bonds a great number of things must be taken into account, first, there has been a distinct advance in the rate of interest, for over 18 months, and a bond would not be worth, or sell for as much, today as 18 months ago.

Two years ago, about the time the Lake Shore began refunding, $3\frac{1}{2}$ per cent. bonds sold at ridiculous prices, as events have since shown. New York Central $3\frac{1}{2}$ per cents sold for 113 and nobody would claim that was the value.

"Q. So long as there is an ample market for a bond at a given price, the market value of that bond is not depressed at all by the fact that a certain class of investors cannot afford to hold it?

A. It would be if they were sufficiently numerous to make the market. Provided the market was perfectly free, I would say the number of people affected was small in proportion to the whole."

A free market is when there is an ample market for bonds

980 at that price, and when $3\frac{1}{2}$ per cent. bonds sell freely at par or better, the bond is well worth that.

The rate of annuity on the physical property ought to be a net return of $3\frac{1}{2}$ per cent., subject to no deduction.

I understood Mr. Butterfield's question to be, What rate should be taken for calculation of the annuity on the Michigan Central

road, if it is to be subject to taxation; are taxes to be allowed before adopting the $3\frac{1}{2}$ per cent. rate?

You must take into account all taxation coming out of the company. Am not speaking of taxation on stocks and bonds, but about that against the railroad company directly.

Mr. KNAPPEN: That is what you mean, Mr. Butterfield?

Mr. BUTTERFIELD: Certainly.

(Under objection of incompetent.)

What I meant was, assuming the tax rate to be $\frac{1}{2}$ per cent., that should be added to the annuity rate, making the reckoning on the basis of 4 and not $3\frac{1}{2}$ per cent.; it must net $3\frac{1}{2}$ per cent. to investor. Taxes should be deducted from the earnings before capitalization.

During the year ending August 1902, Michigan Central stock was worth, 80 to par. I base my judgment of actual condition of the road on annual report. Do not know operating ratio for the several years before 1902; that is about the last thing I note in a report; operating expenses were somewhat heavy, indicating that the Michigan Central, is bringing the road up to the requirements of modern transportation, maintaining efficiency and real value. They are not from our point of view able to do a large amount of business; our point of view is that of dividends; there was a small steady growth in gross earnings and actual business.

981 Regard this as a road confronted with considerable increased requirements; it needed a great deal of expenditure, so it could properly serve as a link in a very important system. Have always regarded the Michigan Central as one of the weak properties in comparing dividends with Lake Shore, "needing that kind of expenditure and of limited dividend paying capacity." The large ratio of operating expenses indicates that it costs to reproduce more than it cost in previous years; the great test is whether the dividend paying capacities have increased, that makes the value.

I should call improvements in bridges and culverts, etc., renewals, from the point of view of a man who holds the stock and expects to stay with it. From the standpoint of the stockholder and investor, a railroad which is replacing its culverts, bridges and buildings with more permanent structures, is safer, but not more valuable; that may not bring it more actual dividends, but is an element to be taken into account; it would make one 4 per cent. stock sell at 60 to 65, as in the Atchison, and another at 82 or 85, as in the Union Pacific.

The increase in the physical condition of the Michigan Central would make a difference in the stocks' selling price; that is why I said 80 to par; par would reflect that very decidedly. I understand that the Michigan Central has been paying about 4 per cent. dividends; don't know what it paid during panic years 1893 to '97. Attributed 1902 activity in Michigan Central stock to activity of Junior Vanderbilts; there was a period of continuous advance in railroad stocks from September 1900, until September 1902.

In September 1900, the highest point was reached on stocks generally,—for example, New York Central:

Date.	Low.	High.	Date.	Low.	High.
1899.			1902.		
January	121½	141	January	159½	161½
December	120	134½	February	161½	166½
For the year:			March	161½	164
December	120	.....	April	156½	165½
March .....	.....	144½	May	153½	161½
1900.			June	153½	157½
January	131½	138	July	154½	167½
December	140½	165½	August	163	166
1901.			September	155	167½
January	129½	146½	October	149½	159
December .....	.....	171½	November	147	159½
			December	148	157½

982 (Under objection of irrelevant.)

This would not be called a Junior Vanderbilt. The Illinois Central, (independent of Vanderbilt system), quotations were as follows:

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January	114	122	For the year:		
December	105½	122	May	124	.....
For the year:			July .....	.....	154½
December	105½	.....	1902.		
January .....	.....	122	January	137	141½
1900.			February	137½	143½
January	110½	114½	March	138½	142½
December .....	.....	112½	April	141½	153½
For the year:			May	150	155½
June	110	.....	June	150	161½
December .....	.....	112½	July	159½	170½
1901.			August	164	173½
January	128½	136	September	147	173½
December	136	140½	October	141	155
			November	139½	148½
			December	147½	147½

(Under objection of irrelevant.)

The Chicago & Northwestern quotations were as follows :

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January	141½	152½	January	168½	177
December	148	169½	December ..	197	209½
For the year:			For year	168½	.....
January	141½	.....	November .....	.....	213½
September .....	.....	173	1902.		
1900.			January	204½	216
January ..	158	164½	December ..	210	223
December	166½	172½	For year :		
For the year :			January	204½	.....
June	150½	.....	April .....	.....	271
December .....	.....	172½			

(Under objection of irrelevant.)

The Pennsylvania quotations were :

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January	122½	142	January	142½	153
December	127	136½	December	145	152½
For year :			For year :		
December	127	.....	May	137	.....
January .....	.....	142	April .....	.....	161½
1900.			1902.		
January ..	128½	133½	January	147	151½
December	141½	149½	December	149½	158½
For year :			For year	147	.....
June	125	.....	September .....	.....	170
December .....	.....	149½			

983 (Under objection of irrelevant.)

The Ann Arbor quotations, for preferred stock, were :

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January.....	38	40	January.....	56½	58½
December.....	40	45	December.....	62	66
For year.....	36	48½			
1900.			For year:		
January.....	41	45	September.....	50	.....
December.....	51	59	December.....	.....	66
For year:			1902.		
July.....	40½	.....	January.....	63	66
December.....	.....	59	December.....	67	68½
			For year:		
			January.....	63	.....
			May.....	.....	78½

(Under objection of irrelevant.)

The Delaware & Hudson quotations were as follows :

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January.....	106½	117½	January.....	126½	162½
December.....	109½	120½	December.....	168	178
For year:			For year:		
January.....	106½	.....	May.....	105	.....
September.....	.....	135½	April.....	.....	185½
1900.			1902.		
January.....	113	119	January.....	170½	184½
December.....	134½	150½	December.....	153½	174
For year:			For year:		
June.....	110	.....	December.....	153½	.....
December.....	.....	134½	January.....	.....	184½

(Under objection of irrelevant.)

Quotations on Chicago, Milwaukee & St. Paul, common stock, were:

Date.	Low.	High.	Date.	Low.	High.
1899.			1901.		
January.....	120½	130½	January.....	142½	162
December.....	112	125½	December.....	157½	169
For year.....	112	136½			
1900.			For year:		
January.....	115½	119½	May.....	134	188
December.....	125½	140½			
For year:			1902.		
July.....	109½	.....	January.....	160½	168½
December.....	.....	148½	December.....	166½	179½
			For year:		
			January.....	160½	.....
			September.....	.....	198½

954 EMORY R. JOHNSON, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

My age is 40 years; my residence is Philadelphia. I have been professor of transportation and commerce in the University of Pennsylvania, for ten years; for some years have been editor of *Annals of the American Academy of Political and Social Science*; "I am now connected with the department of economics and sociology of the Carnegie Institute, in charge of one of eleven divisions of the department of economics and sociology, which is engaged in the preparation of the economic history of United States; I was a member of the Isthmian Canal Commission from 1899 to March 1904; for seven months in 1899, was expert agent on transportation for the United States-Industrial Commission for three months during 1898, was special employee of the Interstate Commerce Commission, enlarging and improving its library; did work for United States Department of Labor on the subject of railway labor," in 1896 and 1898; in 1891, was chosen arbitrator between Cuban and Pan-American Express Co. and United Railways of Havana, but did not serve.

I am a member of the following societies: Counselor, American Economic Association; member board of directors American Academy of Political and Social Science; member National Geographic Society of Washington, and first vice president the Geographic Society of Philadelphia.

My books comprise: A volume on *Inland Waterways, Their Relation to Transportation* (pub. 1893); *Report, on Industrial and Commercial Value of Isthmian Canal to the Government* in 1902; volume on *American Railway Transportation*; now at work on transportation book for use in secondary and commercial schools.

985 My papers comprise: Some published by the United States Department of Labor; in bulletin of American Geographic Society; in Quarterly Journal of Economics, by Harvard university; in Political Science Quarterly, by Columbia university; in Annals of the American Academy, and frequent contributions to the more popular magazines.

I have read Prof. Adams' testimony in this case, and have given some study to question of valuation of railroad property as it arises in this litigation.

I think the stock and bond plan is practically worthless as a method of deriving an accurate valuation of railway property, as to determine the value of a railway property from the securities of the corporation, it is necessary, first, that the securities should represent actual investment, and, second, that the investment made at the time of issues of these securities shall correspond fairly close with actual value of property into which the investment went, and third, the stocks and bonds, (particularly, stocks) of a railroad corporation have market values influenced by speculative forces, independent of the property's actual value.

(Subject to objection of incompetent and immaterial.)

Mr. Butterfield offers in evidence and reads from the Interstate Commerce Commission's report for 1903, (Ex. 1, May 21, 1904) as follows, beginning page 29:

"It may be proper to add a word relative to the plans that may be pursued." (Referring to plans for the valuation of railway property.) "Of the various methods of valuing railway property the one which seems the most reliable involves a complete and detailed inventory of both physical and non-physical value. The other methods

986 which come into competition with the inventory methods are, first: the acceptance of the book items, cost of road and cost of equipment, and such other items as appear on the assets side of the balance sheets as standing for the value of railway property, or, second: the acceptance of the market price of railway obligations as a measure of that value."

On page 30 the following: "The only plan which has thus far received the qualified approval of the courts is what is known as the stock and bond plan, that is to say, the valuation of corporate properties on the basis of the market quotation of their securities. Much may be said in favor of this method of valuation and much also against it.

Passing over minor considerations, two considerations suggest themselves which point to the inadvisability of placing an exclusive reliance upon the stock and bond plan of valuation. In the first place, what is sometimes called the rule of the Supreme Court for the valuation of railway properties, that is to say, the acceptance of the judgment of the market in the price it pays for stocks and bonds as a measure of value is a rule of nearly thirty years' standing, and much of the pertinency which it may have had between 1870 and

1880 is largely set aside by the conditions under which the great properties are now organized and operated. The purchase of individual for permanent investment is of small account compared with the purchase by syndicates for consolidation and control, and when it is recognized that the considerations which influence syndicates of capital in purchasing stocks and bonds differ widely from the considerations which influence an individual in determining the price he can afford to pay for an investment, it must be conceded that the market price of railway stocks and railway bonds is by no means a correct measure of the cash value of railways as that phrase 987 is commonly used and as it is defined in statutory law.

The second reason why this rule fails to satisfy the requirements of a just valuation is that the great majority of railway stocks and railway bonds are not bought and sold upon the market. Two years ago this commission, in response to a resolution of the Senate, undertook to make a valuation of railway securities on the basis of market price of stocks and bonds; the following is quoted from the report made in response to this resolution: 'It may not be inappropriate as bearing upon the extent to which reliance can be placed upon the figures submitted to state the difficulties encountered in this computation; the chief difficulty was found in the fact that by far the larger proportion of railway securities are not subject to extensive purchase and sales and on this account fail to disclose the market price. This report deals with over two thousand corporations while the number whose securities were quoted on the stock market in such a manner as to enable a satisfactory computation of the value of the property which they represent in conformity with the rule embodied in the resolution did not exceed two hundred and twenty-five.

While market valuations of such securities as show a wide market may be of great use in checking values arrived at by other methods or in enabling a correct interpretation of commercial conditions, the commission does not hesitate to say as a result of this experience that that rule fails to justify a very great degree of confidence in the results to which it leads.

If an authoritative and trustworthy valuation of railway properties is to be arrived at the balance sheet, whether on the side of assets or liabilities, cannot be accepted as the starting point for an investigation.' "

988 I have investigated the market price of Michigan Central stocks and bonds for the year ending August 15, 1902, and conclude that those market quotations do not afford a criterion by which to measure the value of all the stocks of the Michigan Central road.

Every railroad corporation, if prosperous, possesses two elements of value, one in its physical property, the other in its franchise obtained from the State; in the term "franchise," I intend to include

all the elements which Mr. Adams enumerated as elements of non-physical value.

Q. If it be assumed that for purposes of taxation, the assessor should arrive at the valuation by computing the extent first of physical, and second, of franchise value, would it result in a separate valuation of corporation franchise?

Mr. KNAPPEN: I object to that as incompetent, and calling for a conclusion which is not a basis for expert testimony.

A. It is my understanding that that would be the case.

I have read Mr. Adams' testimony on the valuation of railway property before the industrial commission.

Q. Assuming the valuation of railroad property is to be determined by the inventory plan, supplemented by the capitalization of net corporate surplus, should it, in your judgment, be applied as he has applied it, in his testimony, in this case?

A. No, sir, I should apply it, with certain modifications, as he did in his report to industrial commission.

In applying this theory to the Michigan Central the following method seems to me equitable:

"First. The State should permit the company to make such expenditures from current earnings for betterments as may be necessary to keep the property abreast of technical development.

Second. From the average net earnings—the average gain 989 for a period of ten years—there should be deducted a percentage on the valuation of the physical property equal to at least four and a half per cent. plus the rate of taxation imposed on that property. For the year 1902 the total rate per cent. would have been 6 2-10.

Third. The net corporate surplus remaining after making the above deduction from the net earnings should be capitalized at not less than 6 per cent. plus the tax rate, or at 7 and 7-10 per cent in 1902."

I think cash and current assets (Report to State Board of Assessors, 1902, p. 31) ought not to be treated as a part of the physical valuation on which annuity is computed; these items are made up of cash, bills receivable, due from agents and other credits; which are fully offset by current obligations; materials and supplies on hand, I think should not be taxed until incorporated in the property.

(Witness handed Ex. 2, May 21, 1904, (stated by Mr. Butterfield to be a statement of charges, by Michigan Central Railroad Co., to operating expenses 1883 to 1903 inclusive, being such charges as would be classified as betterments or improvements under interstate commerce classification) also Ex. 3, May 21, 1904, (a similar statement for Canada Southern railway.)

I have examined both statements, and checked and taken off what, it seems to me, might properly be charged to capital, totalized

them for each year for both companies and added yearly totals to net earnings, before the payment of taxes.

The result for each year, for the Michigan Central system, including the Canada Southern, is :

Year.	Net earnings before payment of taxes, shown by company's books.	Michigan Central betterments from operating expenses, Exhibit 2, May 21, 1904.	Canada Southern betterments from operating expenses, Exhibit 3, May 21, 1904.	Total corrected net earnings for system.
1893.....	\$4,277,945 00	\$382,054 01	\$218,657 50	\$4,878,656 51
1894.....	3,825,199 00	32,317 81	5,803 06	3,863,319 87
1895.....	3,819,765 00	53,770 86	40,808 46	3,914,344 32
1896.....	3,795,402 00	66,687 47	20,808 93	3,882,898 40
1897.....	3,822,665 00	21,432 79	10,364 20	3,854,460 99
1898.....	3,952,953 00	39,827 26	13,958 62	4,006,738 88
1899.....	3,975,377 00	366,933 14	194,518 95	4,536,789 09
1900.....	4,017,865 00	140,847 10	105,495 40	4,264,207 50
1901.....	4,327,105 00	321,590 07	89,734 34	4,738,429 41
1902.....	4,187,813 00	416,151 13	140,718 41	4,744,682 54
Average for ten years.....				\$4,268,462 75
Michigan proportion, 68.5 per cent.....				2,923,896 98

On the physical property (\$43,151,815) I computed an annuity of 6.2 per cent. (4.5 per cent. plus average Michigan tax rate 1.7 per cent.) equaling \$2,775,374.15, this I deducted from Michigan proportion of the net earnings, which leaves \$248,522.83.

To determine the value of the franchise, I capitalized this at 7.7 per cent. (6 per cent. plus current tax rate) which gave value of the franchise as \$3,227,569, which, added to the appraised value of the physical property, gave for the valuation of the Michigan Central in Michigan for 1902, the sum of \$46,379,384.

I was influenced in adopting a rate of 4½ per cent. for the annuity by four considerations:

First, because I made additions to net earnings, consisting of certain amounts paid out of earnings for betterments. (Prof. Adams stated in his testimony that he was influenced to make rate 3½ per cent. because the company had charged considerable betterments to operating expenses;)

Second, a study of the average yield and selling price of good railroad bonds, 1893 to 1902;

Third, the selling and yielding price of high grade railroad stocks, 1893 to 1902;

Fourth, by the belief that the annuity should be somewhat above the rate a prosperous corporation must pay to secure money; I believe there should be a margin to cover the risks to which railway property is subject.

It seemed to me, that the reasons given in Prof. Adams' testi-

mony, for higher annuity on the Pere Marquette than the Michigan Central were sound.

Should it appear that the Pere Marquette, instead of charging to operating expenses items of permanent improvement, had charged to capital items of operating expenses, to make a valuation parallel with that outlined for the Michigan Central, it would be necessary to decrease net earnings to some extent.

Wherever in the Pere Marquette books I found items charged to capital which ought to have been treated as operating expenses, I would deduct those from net earnings.

Q. If on computation of the valuation of Pere Marquette system by the Adams plan as applied by you to the Michigan Central, it should appear that the annuity on the physical valuation is considerable more than the net earnings, what would be your conclusion on whether the physical valuation was a correct measure of the property's true cash value?

A. If your supposition were true, either the physical valuation or the rate of annuity would be unduly high; if the proper rate of annuity was used, it would indicate that the physical valuation was excessive.

Cross-examination by Mr. KNAPPEN:

In connection with the Carnegie Institution system, I have charge of the preparation of history of American commerce; my experience relates to transportation rather than finance; throughout the past eleven years, my studies on transportation have involved more or less study of railway finance; I do not wish to pose as a specialist, on railway finance, or taxation.

992 I have given no unusual amount of study to problems of finance, the stock market and railway taxation. The most fundamental objection to the stock and bond plan of valuation is the securities do not represent the value of the property. Assuming it to be over or under capitalized, the over or under capitalization is partially reflected in the market. A man, buying a stock or bond, considers the earnings of the company.

Q. Assuming that the market value of property is the basis of its assessment for taxation and that you could, from a comparison over a term of years, arrive at the market value of its stocks and bonds with a fair degree of certainty, wouldn't that be a fairly safe plan for valuing the property of a railroad?

A. No, sir. Not in the United States, as securities are not issued with reference to original investment; I understand the selling price of securities represents only the public estimate of those securities. The public properly estimates the value of the securities, but by so doing, does not necessarily or usually estimate value of the physical property of a railroad; it takes into account the earnings and various other things; a prudent intelligent investor studies the balance sheet.

Q. Doesn't it reasonably follow, assuming the investor to be prudent, that sales for purposes of investment fairly represent the prudent judgment of investor, that market value of stocks and bonds would fairly represent the property as a whole?

A. In order to reach that conclusion, it would be necessary to assume also that the number of transfers is sufficient to reflect the actual value.

The report of the Interstate Commerce Commission states that out of 2000 corporations, transfers for only about 225 were considered adequate; in the 2000 were included the corporations whose stocks were inactive.

The plan is on the whole unreliable; I would not draw the conclusion that it is not adapted for consideration in the case of any railroad. There are a few corporations whose bookkeeping has been such that one could determine from the balance sheet an accurate estimate of property's value.

(Under objection of, not proper cross examination, incompetent and irrelevant.)

I took the position in my book (American Railway Transportation, 1903) that the plan stated by Prof. Adams in his testimony before the industrial commission, was commendable; didn't give it unqualified approval, because I didn't take up its application.

(Mr. Knappen reads from page 93 of this book, as follows:)

"The solution of this difficult question seems to be found by taking into consideration both the cost of reproduction and the earning capacity in determining the basis of capitalization, and this method has been followed in a general way by numerous courts and commissions. Definite rules for applying this method were worked out by State tax commission in Michigan in 1900. In determining the value of the physical properties of the railroad, its road-bed, rolling-stock, terminals, etc.—the cost of duplication was made the basis of valuation. The railroad company's franchise, the special concessions granted to it by public authority and the special commercial opportunities upon which its business depended—that is to say, all the non-physical or immaterial elements of its property—were valued in accordance with their earning capacity. To ascertain the value to be attributed to these non-physical properties, a method suggested by Prof. Henry C. Adams was followed. According to the method devised by Professor Adams, the value of these immaterial properties, was determined—

1. By deducting aggregate expenses of operation from gross earnings and adding the income from corporate investments.

2. By deducting from the total income thus obtained an amount properly chargeable to capital—that is, a certain per cent. on the appraised value of the physical properties—rents paid for the lease of property operated and permanent improvements charged directly to income.

3. By capitalizing the remainder at a certain rate of interest. This method of values gives a basis for capitalization that seems to be equitable to all parties in interest; the public, the investor and the railroad company. The valuation thus determined also affords a fair basis for taxation."

(Under objection of incompetent, irrelevant and improper cross examination.)

A. The view held when I wrote that book, and that I now hold is that Prof. Adams' theory of valuation (as outlined in 1900) is sound in principle, and may be employed to secure equitable taxation of railroad property.

Whether equity will actually result depends on manner in which theory is applied and carried out in practice.

Q. In applying your plan to the Michigan Central properties for 1902, the difference in the methods of computation by yourself and Prof. Adams is that you :

First, took a ten year period of net earning instead of five ;

Second, took a 4.5 per cent. annuity, instead of 3.5 per cent., on the physical valuation ;

Third, added the anticipated tax for 1902 to the annuity ;

Fourth, capitalize the portion of earnings above the annuity on physical valuation at 6 instead of 5 per cent. ;

Fifth, add to that 6 per cent. the taxation on the property ;

995 Sixth, apply this taxation to the Michigan part only of the property, instead of getting the taxation paid by entire system, then taking percentage remaining for Michigan ;

Seventh, reject from the physical values cash and current assets ;

Eighth, make changes in amount chargeable to operating expenses.

A. I think you have correctly stated the plan I have outlined.

The ten year period embraces the entire of the panic years from 1893 to 1897.

I have had no personal experience with any railroad consolidation. My idea of taking the ten year period was not based upon practical experience, either in general business enterprises, or manufacturing, commercial or railway consolidations ; so far as I know, there are no records of business experience upon which one may draw ; if there are such, I don't know of them, and my adoption of the period is theoretical rather than practical.

In taking a 4.5 per cent. instead of a 3.5 per cent. annuity, I determined this by taking rates over the ten year period, and had calculations of the average selling price of representative bonds of the Michigan Central ; Illinois Central ; Chicago, Milwaukee & St. Paul ; Chicago & Northwestern. In three cases I had calculations showing the yield to the investor.

I also calculated the market value and yield to the investor of representative railway stocks of roads named and the Lake Shore from 1893 to 1902 inclusive. I find the average yield to the in-

vestor in Michigan Central 5's maturing 1931 (taking into account, the sinking fund to wipe out premium) to be 3.894 per cent.; those are the only Michigan Central bonds on which I have computation.

I made no computation of the rate netted to the investor during the five years preceding August 15, 1902, nor of the average rate to investor in Michigan Central bonds during the year ending the same date. The average yield to the investor in Michigan Central stocks, (taking into account premium) for ten years ending with 1902, is 4.02 per cent. I made no computation for the five years ending with 1902, nor for the year ending August 15, 1902. I have no opinion on whether the 1901 law suppressed Michigan Central values.

"Q. You understand that the 1902 stock and bond prices on Michigan Central properties were kept up until the general slump which occurred later in the year with reference to railway properties, generally, don't you?"

A. I think there was a general parallelism there."

I haven't taken up the question of whether there was any greater falling off with respect to the values and returns to investors in Michigan Central stocks and bonds during, and following, 1902 than with other railroads.

(Under objection of irrelevant.)

I haven't studied the question of how, previously to law of 1901, taxes paid by railroad companies in Michigan compared with those paid by other classes of property there. I have seen the statement that the previous system of taxation there made railway taxes less according to value, than upon property generally in the State.

I do not know the rate in Michigan for property generally for 1903 as compared with 1902, and have no knowledge sufficient to form the basis of testimony upon how property values, in Michigan, generally in 1903 compared with those of 1902.

I have not compared the Michigan Central with railroads of other States to ascertain whether previous to the year 1902, the Michigan Central added new equipment, extensions and improvements as fully as railroads in adjoining States.

(Under objection of irrelevant.)

My understanding is that the railway taxes would not be charged or appear in the records of the company until the check was written.

(Under objection of irrelevant.)

From 1899 to and including 1902 the trend of gross and net earnings was upward, so it would reasonably be anticipated, if that trend continued, that both net and gross earnings for 1903 would exceed those of 1902.

Q. I note on page 105 "American Railway Transportation" you say:

"A comparison of the freight revenue line on the chart with the line for operating expenses shows that when the earnings decline rapidly it is not possible to curtail operating expenses to an equal degree. Likewise, when there is a large increase in earnings the operating expenses, including large expenditures for betterments, do not rise with equal rapidity. A large business is relatively less expensive than a small one."

A. That is a correct statement. If you are going to make a comparison of values, you must take a period covering oscillations up and down, i. e. lean and fat periods. In the Adams plan the business of the following year or a series of years is anticipated only in so far as any system of taxation must recognize that periods of prosperity and depression alternate; no valuation at any time should be based upon a period of prosperity only; I base the capitalization of non-physical at 6 per cent. on my judgment.

998 "Q. That is, you haven't any particular proofs to sustain your judgment except the general opinion that you get in your mind?"

A. My statement is that no one would have any other basis than a judgment."

In the addition of the tax rate to the 6 per cent., I understand that the railroads of Michigan were assessed at 1.7 per cent. in 1902; I am referring to same taxation referred to in getting annuity rate for the capitalization of physical elements. It is subject to the same considerations. The difference between myself and Prof. Adams is that he has taken out the average taxes actually paid for five years, while I make use of the rate of assessment for the year under consideration.

I assume the taxes are paid early in 1903 for 1902, and would come out of recent earnings—those for 1902. The only calculation I made was that given in direct testimony.

In determining rate, I ascertained the actual (not the weighted, and without reference to bulk of transaction) average yield to the investors for stocks and bonds for ten years for a limited number of representative companies.

Every well managed railroad is obliged to carry a cash balance and have to have materials and supplies on hand; they are property; materials and supplies become devoted to railroad purposes when incorporated in the property; they are on hand as property intended for railroad purposes.

My information in respect to operating expenses of Michigan Central system is only what is in Exhibits 2 and 3, May 21, 1904.

In correcting the operating expenses, have left in them additional equipment, locomotives and cars and have taken out expenditures for additional trackage, side tracks, sidings, and land. The result is the effectiveness of the equipment of the road for performing the work of transportation has increased year by year out of operating

expenses; its effectiveness in matter of earnings depends on the rate and the cost of the conduct of transportation; assuming the rates have not decreased, the result is, that according to this system, the earning capacity of road would be increased; every road, during the period from 1898 to 1902, should have increased its power 1000 to secure net earnings. It is an established principle of railway policy that a railroad strengthens itself during years of prosperity and lives on its fat during the years of depression; the tendency among railroads has been to strengthen the future earning capacity and increase the value of the property by paying for equipment, improvements, and a certain amount of construction out of earnings. The result of the system followed by the Michigan Central in that regard is to give a better and more economical service; the earning capacity of the Michigan Central is favorably affected by betterments which have been included in operating expenses and the economies resulting therefrom; during last five years it has been on the up-grade.

Its increased prosperity and earnings are due in a large part to improvements which have been paid for out of operating expenses. You add to value of the property in fat seasons, creating a surplus as a bank does out of its earnings, in good times; every railroad has to prepare for periods of depression. The influence of conditions resulting from charging to operating expenses this class of improvements, is temporary in that railroads do not have the means to make these expenditures during depressions, but is permanent if the property is not dragged to as low a level by next period of depression as by previous one.

Q. In your book "American Railway Transportation" (p. 105) after saying the earnings of railroads have been favorably affected by betterments and resultant economy of previous years, you state in 1897 a freight train's load was 204 tons, in 1900, 271 tons, and 1901, 281 tons, and that average freight train earnings per mile in 1897, \$1.65; 1900, \$2.00; 1902, \$2.132.

A. These figures are correct,—taken from official report.

Q. You follow that statement by this:

"While both the train load and the earnings have been favorably affected during the last few years because of the large volume of traffic they are none the less due to improvements in track, equipment and management, whose influence on earnings will be permanent."

1001 A. I have no reason to change any former statement there.

I have found it to be a fact for a number of years past that profits to stockholders have been restricted in order to strengthen future earning capacity and earning of the property. Speaking from memory, the decline in freight rates and charges terminated in 1900.

From then to 1902 there was a little advance; freight rates constitute bulk of railway earnings; this policy would favorably affect the general earnings. The earnings of the railroad may be increased

with respect to freight by a direct raise in rate or an increase in traffic as pointed out by Prof. Adams. The same result would be affected by a transfer in respect to classification, rates might remain same and earnings be greater by a change of classes into which divided. Regard information on this subject printed by Interstate Commerce Commission as authority.

The table on page 106 of "American Railway Transportation" entitled "Comparative condensed income account per mile of line operated for the years ending June 30, 1901 to 1891" is transcribed directly from the statistics of the Interstate Commerce Commission.

(Under objection of irrelevant.)

The net income from operation was, per mile of line operated, as follows:

1891	\$2,282.00
1892	2,404.00
1893	2,314.00
1894	1,946.00
1895	1,967.00
1896	2,072.00
1897	2,016.00
1898	2,325.00
1899	2,435.00
1900	2,729.00
1901	2,854.00

The result aside from the panic years, has been a steady increase in the net income from operation.

Redirect examination:

The expenditure of money for keeping the property abreast of technical development does not necessarily result in increased net earnings, the object of company in making betterments is to make sure its ability to maintain net earnings at a desirable point. Various forces affect net earnings; if it be assumed that expenditures for betterments have only kept the road abreast of technical requirements and that it has not been possible to increase dividends, the evidence would be that property is not more valuable.

1002

GEORGE E. COMSTOCK, sworn for complainant.

Direct examination:

I reside in Detroit; have been for eight years clerk in office of the auditor of the Michigan Central railroad. Exhibits 2 and 3, May 21, 1904 are part of the files of that office. Carbon copies of statements of so-called betterments charged to operating expenses are made up every six months for the information of the Canada South-

ern officials. Exhibit No. 2 covers the Michigan Central portion of the property from 1883 for 21 years. Exhibit No. 3 a corresponding statement for the same period of improvements or so-called betterments charged to operating expenses on account of the Canada Southern portion of the road. This is the only record in the office of the Michigan Central of the information it purports to contain.

(So much of Exhibits 2 and 3 as covers from 1893 to 1902 inclusive offered in evidence.)

(Subject to objection of incompetent and immaterial.)

Cross-examination by Mr. TOWNSEND:

I had nothing to do with the preparation of these statements or the matters set out in them, and do not know of my own knowledge whether they are correct statements; they are made from statements furnished by the various departments. It is the only record of so-called betterments ever made up, and is made for the benefit of the Canada Southern officials.

(Mr. TOWNSEND: We move to strike out the testimony given by Mr. Comstock, on direct examination, as incompetent and hearsay, and not properly proven.)

Redirect examination:

The Michigan Central had an agreement by which it operated the Canada Southern; on request of the officials of that company those statements were prepared to show, for their information, the amount expended in betterments on account of Michigan Central portion of the property, and also on account of the Canada Southern.

Under that agreement, which was in writing,—

(Objected to by Mr. Knappen as not the best evidence.)

(Continuing:)—the Canada Southern received payment, by voucher every six months. For the last several years it received 40 per cent. of the net income, after taking out the operating expenses and fixed charges. The operating road determined what money should be paid out for operating expenses and improvements.

"Q. So I take it from that it became important for the Canada Southern to be advised whether there had been a fair division of the expenditures which might be called improvements between its road and the Michigan Central?"

A. I suppose that is the reason that they asked for this information.

Q. You do not know that they asked for the information?

A. Yes, sir.

Q. That was in response to this request that this information was given?

A. Yes sir, and for no other purpose were these statements prepared."

Recross-examination :

I know that these statements were given to advise the 1004 Canada Southern whether there had been a fair division of expenditures as they have been discontinued since the new lease with the Canada Southern went into effect; they were made up on the request of Canada Southern officials; not for the Michigan Central.

The Canada Southern obtained 40 per cent. of the net income after deducting, from earnings, operating expenses and fixed charges; those statements are betterments, so-called, charged to operating expenses, which were deducted and the remainder divided in the proportion of 40 to 60.

The annual report shows the total operating expenses, which include these items. These exhibits show betterments charged to operating expenses. There have been betterments charged to construction.

(Offer of Exhibits 2 and 4 renewed.)

1005 Recapitulation of Exhibits 2 & 3, May 21, 1904.

Michigan Central Railroad.

The statements of betterments are headed as follows :

"Statement of Betterments to Michigan Central Properties Charged to operating Expenses."

The recapitulations of the statement of betterments for each six months are as follows :

Six Months Ending June 30, 1893.

Recapitulation.

Locomotive department.....	7,696.22	
Car department.....	69,651.95	
Building department.....	58,729.34	
Track department.....	117,174.11	
Accounting department.....	40,000.00	
		<hr/> 293,151.62

Six Months Ending December 31, 1893.

Recapitulation.

Locomotive department.....	209,520.08	
Car department.....	75,600.03	
Building department.....	61,879.51	
Track department.....	168,550.85	
Accounting department.....	52,000.00	
		<hr/> 567,551.37

For Six Months Ending June 30, 1894.

Recapitulation.

Locomotive department.....	1,422.60	
Car department.....	551.00	
Building department.....		
Track department.....	28,504.68	
		30,578.28

Six Months Ending December 31, 1894.

Recapitulation.

Locomotive department....	2,826.40	
Car department.....		
Building department.....	16,896.31	
Track department	68,361.06	
		86,083.77

Six Months Ending June 30, 1895.

Recapitulation.

Locomotive department.....	1,590.60	
Car department.....	13,907.93	
Building department.....	14,930.42	
Track department.....	58,164.08	
		88,593.03

Six Months Ending December 31, 1895.

Recapitulation.

Locomotive department.....	4,250.72	
Car department.....	34,042.71	
Building department.....	23,198.79	
Track department.....	69,174.73	
		130,666.95

1006

Six Months Ending June 30, 1896.

Recapitulation.

Locomotive department.....	4,435.95	
Car department.....	89,956.39	
Building department.....	27,185.64	
Track department.....	40,638.75	
		162,217.73

Six Months Ending December 31, 1896.

Recapitulation.

Locomotive department.....	5,009.07	
Car department.....	40,955.93	
Building department.....	29,090.33	
Track department.....	96,033.29	
		171,088.62

Six Months Ending June 30, 1897.

Recapitulation.

Locomotive department.....	3,781.82
Car department.....	43,395.00
Building department.....	3,576.70
Track department.....	38,662.49

89,662.02

Six Months Ending December 31, 1897.

Recapitulation.

Locomotive department.....	5,690.34
Car department.....	47,675.26
Building department.....	7,978.20
Track department.....	73,981.93

135,325.73

Six Months Ending June 30, 1898.

Recapitulation.

Locomotive department.....	5,842.16
Car department.....	35,600.38
Building department.....	1,819.61
Track department.....	71,369.22

114,631.35

Six Months Ending December 31, 1898.

Recapitulation.

Locomotive department.....	4,203.86
Car department.....	18,186.00
Building department.....	36,604.44
Track department.....	162,441.73

221,436.03

Six Months Ending June 30, 1899.

Recapitulation.

Locomotive department.....	3,920.00
Car department.....	8,920.00
Building department.....	24,654.12
Track department.....	61,087.95

97,980.39

Six Months Ending December 31, 1899.

Recapitulation.

Locomotive department.....	12,657.39
Car department.....	296,424.12
Building department.....	53,770.42
Track department.....	176,842.13

539,694.06

1007

Six Months Ending June 30, 1900.

Recapitulation.

Locomotive department.....	6,521.40	
Car department.....	25,413.56	
Building department.....	20,803.16	
Track department.....	127,087.48	
		<u>179,825.60</u>

Six Months Ending December 31, 1900.

Recapitulation.

Locomotive department.....	9,914.52	
Car department.....	54,980.00	
Building department.....	85,867.07	
Track department.....	258,913.79	
		<u>409,675.98</u>

Six Months Ending June 30, 1901.

Recapitulation.

Locomotive department.....	10,943.08	
Car department.....	20,308.49	
Building department.....	16,249.76	
Track department.....	200,321.11	
		<u>247,822.44</u>

Six Months Ending December 31, 1901.

Recapitulation.

Locomotive department.....	6,858.04	
Car department.....	27,524.12	
Building department.....	96,040.91	
Track department.....	483,798.11	
		<u>614,221.18</u>

Six Months Ending June 30, 1902.

Recapitulation.

Locomotive department.....	3,207.35	
Car department.....	15,702.23	
Building department.....	120,052.77	
Track department.....	340,992.93	
		<u>479,955.28</u>

Six Months Ending December 31, 1902.

Recapitulation.

Locomotive department.....	13,823.18	
Car department.....	61,250.67	
Building department.....	86,403.98	
Track department.....	294,026.59	
		<u>455,504.42</u>

The statement of additions is headed as follows: "Statement showing additions made to Michigan Central equipment and charged to operating expenses, January 1, 1883 to December 31, 1893," and is as follows:

Year.	No.	Class.	Cost.
1883	42	Log trucks.....	\$2,100.00
1884	1	Snow plow.....	1,357.38
"	2	Baggage & express.....	4,319.96
1885	2	Baggage.....	3,746.68
1008			
1885	1	Derrick.....	1,270.77
"	1	Transfer car.....	5,000.00
"	1	Log machine.....	385.00
1886	1	Snow plow.....	1,206.00
"	2	Baggage.....	4,150.00
"	1	Railsaw.....	7,500.00
1887	65	Stock.....	34,800.00
"	1	Pile driver.....	4,300.00
"	1	Steam shovel.....	6,200.00
"	33	Boxes.....	17,325.00
"	100	Flats.....	39,500.00
1888	1	Steam shovel.....	6,200.00
"	1	Steam shovel.....	6,200.00
1889	3	Mail.....	13,500.00
"	1	Official (pres't).....	13,500.00
"	392	Flats.....	133,280.00
"	64	Stock.....	36,480.00
"	1	Wrecking.....	9,300.00
"	1	Steam shovel.....	6,100.00
1890	2	Baggage.....	7,067.62
"	2	Dining.....	30,370.30
"	3	Mail.....	13,500.00
"	44	Stock.....	25,982.00
1891	90	Stock.....	53,145.00
"	134	Furniture.....	80,400.00
"	197	Boxes.....	128,164.00
"	66	Refrigerator.....	64,350.00
1892	136	Boxes.....	85,672.00
"	26	1st class pass'ng'r.....	161,608.42
"	2	Horse express.....	6,752.34
1893	2	Dining.....	34,124.54
"	1	Buffet.....	12,699.44
"	2	1st class pass'ng'r.....	12,808.34
"	6	Baggage & express.....	15,638.06

1431

1,087,863.05

New Locomotives.

		Cost.	
1867 Schenectady locomotive- num- bered 272, 273, 274, 275, 276...	5	53,295.00	
1888 Schenectady locomotives num- bered 277.....	1	10,760.00	
D. B. C. & A. locomotives num- bered 278, 279.....	3	14,000.00	
1889 Schenectady locomotives num- bered 280, 281, 282, 283, 284..	5	49,138.00	
1892 Schenectady locomotives num- bered 285, 286, 287, 288, 289 290.....	6	62,588.52	
1893 Schenectady locomotives num- bered 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510.....	20	205,282.36	
			395,053.88
Grand total.....	39		1,482,916.93

1000 Canada Southern.

The statements of betterments are headed as follows :

"Statement of betterments to Canada Southern properties charged to operating expenses."

The recapitulation of statements of betterments for each six months are as follows :

Six Months Ending June 30, 1893.

Recapitulation.

Locomotive department	5,766.61	
Car department	41,721.27	
Building department	5,916.66	
Track department	76,581.29	
		129,987.93

Six Months Ending December 31, 1893.

Recapitulation.

Locomotive department	156,650.85	
Car department	43,416.94	
Building department.....		
Track department	94,394.34	
		294,461.63

Six Months Ending June 30, 1894.

Recapitulation.

Locomotive department	557.50	
Car department	1,386.90	
Building department	2,053.95	
Track department	20,023.28	
		<hr/>
		24,021.63

Six Months Ending December 31, 1894.

Recapitulation.

Locomotive department	328.00	
Car department	3,221.40	
Building department	4,049.63	
Track department	22,499.86	
		<hr/>
		30,098.89

Six Months Ending June 30, 1895.

Recapitulation.

Locomotive department	378.00	
Car department	4,648.20	
Building department	1,205.45	
Track department	8,051.54	
		<hr/>
		14,283.19

Six Months Ending December 31, 1895.

Recapitulation.

Locomotive department	378.00	
Car department	10,935.90	
Building department	7,537.40	
Track department	68,354.68	
		<hr/>
		87,205.98

1010

Six Months Ending June 30, 1896.

Recapitulation.

Locomotive department	237.00	
Car department	27,578.40	
Building department	2,980.65	
Track department	40,272.15	
		<hr/>
		71,068.20

Six Months Ending December 31, 1896.

Recapitulation.

Locomotive department	5,259.60	
Car department	22,545.50	
Building department	10,240.03	
Track department	32,300.85	
		<hr/>
		70,345.98

Six Months Ending June 30, 1897.

Recapitulation.

Locomotive department	1,981.69	
Car department.....	24,438.00	
Building department.....		
Track department.....	11,841.37	
	<hr/>	38,261.06

Six Months Ending December 31, 1897.

Recapitulation.

Locomotive department	7,463.21	
Car department	24,132.30	
Building department.....	8,602.37	
Track department	47,983.96	
	<hr/>	88,181.84

Six Months Ending June 30, 1898.

Recapitulation.

Locomotive department	1,539.00	
Car department	14,021.00	
Building department.....	2,469.97	
Track department	17,495.89	
	<hr/>	35,525.86

Six Months Ending December 31, 1898.

Recapitulation.

Locomotive department	3,976.72	
Car department	12,194.00	
Building department.....	2,500.00	
Track department	47,538.67	
	<hr/>	66,209.39

Six Months Ending June 30, 1899.

Recapitulation.

Locomotive department	1,931.20	
Car department	9,044.00	
Building department.....	9,142.80	
Track department	44,757.90	
	<hr/>	64,875.90

Six Months Ending December 31, 1899.

Recapitulation.

Locomotive department	11,668.60	
Car department	170,730.00	
Building department.....	8,644.14	
Track department	169,599.58	
	<hr/>	360,642.32

1011

Six Months Ending June 30, 1900.

Recapitulation.

Locomotive department.....	3,436.30	
Car department.....	9,870.17	
Building department (<i>nil</i>).....		
Track department.....	7,803.14	
	<hr/>	21,109.61

Six Months Ending December 31, 1900.

Recapitulation.

Locomotive department.....	5,263.27	
Car department.....	26,145.86	
Building department.....	12,147.36	
Track department.....	151,855.34	
Can. & Mich. Bridge & Tunnel Co	12,500.00	
	<hr/>	207,911.83

Six Months Ending June 30, 1901.

Recapitulation.

Locomotive department.....	3,406.95	
Car department.....	8,436.43	
Building department.....	34,022.23	
Track department.....	270,243.04	
	<hr/>	316,208.65

Six Months Ending December 31, 1901.

Recapitulation.

Locomotive department.....	4,293.87	
Car department.....	23,040.00	
Building department.....	17,773.49	
Track department.....	183,692.38	
	<hr/>	228,799.74

Six Months Ending June 30, 1902.

Recapitulation.

Locomotive department.....	791.21	
Car department.....	7,775.00	
Building department	10,022.74	
Truck department.....	42,374.07	
	<hr/>	60,963.02

Six Months Ending December 31, 1902.

Recapitulation.

Locomotive department.....	8,252.44	
Car department.....	38,009.95	
Building department.....	37,403.02	
Track department.....	379,354.66	
	<hr/>	463,020.27

The statement of additions is headed as follows: "Statement showing additions made to Canada Southern equipment and charged to operating expenses, January 1, 1883 to December 31, 1893," and is as follows:

New Cars.

Year.	No.	Class.	Cost.
1883	6	Second class.....	20,030.06
"	1	Derrick	7,447.01
1884	1	Combination	2,762.19
1012			
1884	1	Express.....	1,705.54
1885	1	Combination.....	2,445.68
"	1	Baggage.....	1,152.50
1886	1	Baggage.....	2,075.00
1887	10	Way	6,330.00
"	1	Combination	2,500.00
"	17	Box.....	8,925.00
"	85	Stocks	43,690.00
1888	1	Combination	2,810.00
1889	1	Dining (T. C. S. & D.)...	9,500.00
"	36	Stocks.....	20,520.00
"	8	Flats.....	2,720.00
1890	1	Buffet (T. C. S. & D.)...	22,853.32
"	1	Baggage.....	3,533.66
"	22	Stocks	12,991.00
1891	100	Flats.....	51,371.50
"	44	Stocks.....	25,982.00
"	66	Furniture	39,600.00
"	34	Refrigerator	33,150.00
"	94	Box.....	60,382.00
1892	73	Box	50,407.50
"	13	1st class passenger.....	81,797.64
"	1	Horse express	3,376.17
1893	2	Buffet.....	25,500.44
"	1	1st class passenger.....	6,404.17
"	3	Baggage & express.....	8,297.00
"	1	Steam shovel.....	7,150.00

 628

 567,410.38

New Locomotives.

		Cost
1887 Kingston locomotives, numbered 426, 427, 428.....	3	28,500.00
1888 D. B. C. & A. locomotives, numbered 436 and 437.....	2	14,000.00
1889 Schenectady locomotives, numbered 431, 432, 433, 434, 435..	5	65,392.60
1892 Schenectady locomotives, numbered 438 and 439.....	2	26,889.90
1893 Schenectady locomotives, numbered 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451	12	
		<hr/>
		287,486.95
	<hr/>	
	24	854,897.33

1013 GEORGE H. RUSSEL, sworn for complainant.

Direct examination by Mr. BUTTERFIELD :

I reside at Grosse Point Farms ; have been president for 15 years of the State savings bank, by far the largest bank in Michigan ; my previous occupation, manufacturing. I have given to the bank my almost undivided attention for 15 years.

(Under objection of incompetent for the reason that witness has not shown himself an expert on this subject.)

To arrive at the value of the property of a railroad company, by the capitalization of average net earnings over a period of years, after deducting operating expenses, taxes and proper maintenance, I should capitalize at not less than 6 per cent. with proper allowance for future contingencies.

There is no material difference in the rate in last two years ; there would be in 10 or 12 years.

Q. In making such estimate, over what period of years would you wish to have an average taken ?

Mr. KNAPPEN : That is objected to for the same reason. I wish also to object to this question and to the preceding one on the ground that it is immaterial and for the special reason that it does not distinguish between different railroads and is entirely general in its nature.

A. I would wish it to extend to a duller period, from 10 to 20 years, embracing all conditions that would exist in that period.

Q. What, in your opinion, has the net yield to the investor to do with the question of what rate should be used in capitalizing net earnings to find the value of the property of a railroad company ?

Mr. KNAPPEN : That is objected to for the same reason.

The capitalization should be, to my mind, the cost; the return would be considered from a point of view of investment; I do not see what the result has to do with the capitalization of a rail road.

1014 When I fix a 6 per cent. rate I do not consider what Michigan Central bonds would sell for in Wall street, I would not consider Wall street at all in the West.

Q. In a railroad (with net earnings at the expense of the maintenance of the property), where the expenditures for permanent improvements had not been sufficient to maintain the property and keep it abreast of technical development, would you use a higher rate in capitalizing to find value?

A. I would not capitalize it above its worth on its stock issued. I would use a very much higher rate in such case, depending on the degree to which they had failed to keep the property up and its future prospects.

In considering the real value of collaterals, I have from time to time had occasion to estimate the value of property of manufacturing and other corporations, and to consider at same time the management.

Cross-examination by MR. KNAPPEN:

My brother, Henry Russel, is general attorney of the Michigan Central. I would regard Michigan Central stock, paying 4 per cent., better as collateral than manufacturing stock paying 4 per cent. Would not buy manufacturing stock unless it paid more than 4 per cent. under ordinary approved management.

It would not be a safe investment. Manufacturing stock has to bring higher rates to compensate for bad years and use; I would not buy manufacturing stock individually nor accept the collateral unless it showed 10 per cent. or better. Michigan Central stock bearing 4 per cent. would be regarded as good collateral for a present loan, at a margin of 10 to 20 per cent. I would not discriminate against railroad stocks of the class of the Michigan Central more than against ordinary bank stocks; a 3.5 per cent. Michigan Central bond would be good collateral with a margin 9, 10 to 15 points—for a definite period. But not at the rate it bears. I would not regard stock of bank in business 20 years, earning 6 and paying 4 per cent.

1015 as worth par. I base opinion that net earnings of a railroad should be capitalized at not less than 6 per cent. on question of the present and future; if it doesn't earn at least 6 per cent. net, times are likely to come when it will not begin to earn that much; if you buy for investment, you buy for a period of years. I would not take the stock for a continued period, as collateral, unless it showed a better result than 6 per cent. I have had no experience in estimating the value of railroad property, except to compare the cost and worth per mile in investigating their values have never figured out how much Michigan Central valuation would show up on basis

of 6 per cent. net above taxation; have never bought Michigan Central bonds,—they have an artificial value.

We had Michigan Central bonds at one time; familiar with values of bonds of railroads in the Middle and Eastern States generally, as compared with Michigan Central; a limited number of bonds are acceptable under conditions of New York and New England banking laws, as investment for mutual savings banks having no capital, they have had to increase that list from time to time, as there were not enough for the forced investments of those banks.

Northwestern bonds come under the same classification as the Michigan Central; when I say Michigan Central has a special value, I mean all bonds designated as legal investment for New England banks would come under that class; Michigan Central is so designated.

I do not know the net return to investor for 1901 and 1902 in Michigan Central bonds (though it was quite low, suppose about 3.5 per cent.) Chicago, Milwaukee & St. Paul or Illinois Central bonds.

Bonds of the Chicago & Northwestern and Southern Pacific 5's were bought in 1902 by the bank at 3.5 per cent. basis.

A bank stock, with greater chances of loss by panic, ought to earn and accumulate more (about 4 per cent.) against bad times than railroad. In my mind, a railroad stock, no matter how strong or carefully managed, if it didn't earn net, available for dividends, 6 per cent., would not be worth par; it might sell above par temporarily.

I don't think the market value of the stocks and bonds of a railroad is a real criterion of its true value; have never bought a railroad, though have seen them bought, traded in, and built, and known of their operation.

I have never given any special or particular study to the subject of railway values; banking has much to do with investigation of securities and the values.

I have not had experience in capitalizing the net earnings of railroad companies, which leads to a period of 10 or 20 years as proper; railroads generally prosper and increase their earnings over periods of years, and as they increase their business, they have to reduce their rates and haul much more stuff.

I am not familiar with statistics regarding those subjects, but have an idea that from period to period, as the land becomes settled and more business comes to it, there is a general increase in earnings and a decrease in rates.

The business of a manufacturing concern likewise accumulates; the cases are a good deal parallel, as they establish their name and good-will and out of profits, keep abreast of the times and have better machinery, their business increases in about same proportion as a railroad's, both suffering in depressed conditions and periods; am not a special student on that subject, and have no statistics in mind.

I never had occasion to compute the value of a railroad based on

net earnings, would not get at it in that way; I don't believe in the theory of estimating the value of a road by capitalizing its present earnings; the most that would do, would be to fix the present value under the present management.

Think the only value of a thing is its inventory value; of a railroad, it would be the value of its tangible physical property; no railroad has any value in excess of its physical property, because anything above that is dependent upon conditions of the times and the management and is capitalization of the brains that manage it; I do not wish to be understood as saying that from 1890 to 1901 or 1902 there has been any decrease in freight rates.

The last 5 years have been years of progressive prosperity, and the railroads didn't have facilities enough to do the business offered. When I said, with the increase of railroad business from year to year, rates have generally gone down, did not mean it was so in last 5 years.

ELWOOD T. HANCE, sworn for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside in Detroit; am vice president and treasurer of the Union Trust Co., as such am managing and executive officer (for eleven years), previously lawyer and postmaster of Detroit.

As managing officer of the Trust Co. have had occasion to estimate value of various kinds of property, including nearly all kinds of corporations,—gas companies, electric and steam roads.

Q. Assuming you are to determine value of the property of a steam railroad by capitalization of its average net earnings for a period of years; you are presented with net earnings, after the payment of taxes and operating expenses large enough to maintain property against depreciation and keep it abreast of technical development, what rate would you use for capitalization?

Mr. KNAPPEN: That is objected to as it does not appear that witness is sufficiently expert to give an opinion in answer to it.

A. Eight per cent. I should desire to investigate in making up the average, a minimum period of ten years and preferably longer. The net yield to the investor in securities of a steam railroad has practically nothing to do with question of what is a proper rate to use in capitalizing the net earnings to arrive at value of its property.

There is no difference in the conditions between 1902 and the present to change the rate. If a railroad company with net earnings had not maintained its property against depreciation and charged sufficient to operating expenses to keep it abreast of technical developments, I would use higher rate of capitalization.

Cross-examination by Mr. KNAPPEN :

Among directors of the Union Trust Co. are W. C. McMillan, brother of Mr. McMillan of Wells, Angell, Boynton & McMillan, and Henry Russel, general attorney of the Michigan Central, Mr. H. G. Ledyard, president of the Michigan Central, and Henry Russell are directors of State savings bank; I have not had extended experience in capitalizing railroad companies on the basis of net earnings; we underwrote and placed the bonds of, and capitalized the Manistique, Marquette & Northern, a road 50 miles long, on the basis of what it had earned over a period of 12 or 15 years.

This road runs from Manistique to Shingleton, in the Upper Peninsula and does a freight business, principally of forest products and some mineral; it had earned 12 per cent. over a period of about 12 years; we capitalized earnings at 12 per cent., for total bond issue,—the stock cost nothing. That is extent of my attempt to capitalize the net earnings of steam road.

This road, when the timber is cut off, would not be likely to be as valuable as now, the traffic becomes less dense and less valuable as years go by; we (Union Trust Co.) bought Michigan Central 3.5 per cent. bonds for 96, within a week; bought some of the 1902 issue in 1902 at about 3.5 per cent. rate.

At 96 the 3.5 per cent. the bond would net the investor 3.65 1019 or 3.67 per cent.; the 15 cents difference about represents difference in money in 1902 and now.

I don't know whether the large steam roads of the country capitalize on the basis of net earnings, or the rate taken; or the dividends the Michigan Central has been paying for the last several years; or what it has been earning or anything about technical railroad development.

The present market value of the Union Trust Co.'s stock, paying 6 per cent. and taxes, is \$225. per share, netting investor something less than 3 per cent.; it has a capital stock of \$500,000, surplus \$250,000 and undivided profits \$218,000.

The Detroit Trust Co.'s stock, according to quotations, is worth 216, it pays dividends of 6 per cent. and nets investor less than 3 per cent.; its capital stock is \$500,000, surplus \$500,000 and undivided profits about \$200,000.

The State Savings Bank stock has a market value of \$200 plus and pays, I think 6 per cent. above taxes; in neighborhood of 3 per cent. net to the investor; it has a capital stock of \$1,000,000, surplus \$750,000 and undivided profits \$100,000.

(Objected to as incompetent, irrelevant and not proper cross-examination.)

Stocks of profitable, progressive Detroit banks are generally selling at prices which net the investor not over 3 per cent. above taxes there being no material variation in 1901 and 1902.

In the valuation of steam railroad, I do not regard the capitaliza-

tion of net earnings as safe criterion of value. When I said return to investor had practically nothing to do with capitalization rate, I did not mean that I did not have much confidence in stock and bond method of valuation. An investor buying stock takes into consideration the earnings and management. The Union Trust Co. in investing trust funds buys railroad bonds; and has bought 3.5 per cent. Michigan Central bonds; it has never bought any stocks.

It does not invest the money of its beneficiaries in manufacturing business; it is more conservative than banks and loans within 20 to 25 per cent. of market value on stock collateral; apart from the Manistique, Marquette & Northern I have had no experience in determination of proper period over which net earnings on steam rail roads should be considered.

I know nothing about the practice, with respect to capitalization of earnings of steam roads as to the period taken. Would want to use rate of at least 8 per cent. for capitalization; think this method of getting at the value is wrong, and this is true also of gas companies and other corporations. I do not speak of 8 per cent. because I think the investor in road expects return of 8, do not take that into account; the rate I fix is higher than the rate for the use of money temporarily.

In 1902 we got 5 per cent. on long time loans and not as much on investments in railroad bonds; I think in 1902 railroad bonds were selling at prices to net the investor 3.5, 3.75 and 4 per cent. and we bought this class of bonds considering them good safe investments.

1021 TRUMAN H. NEWBERRY, sworn, for complainant.

Direct examination by Mr. BUTTERFIELD:

I reside at Detroit, and am manager of the Newberry estate, and actively connected with the Detroit Steel Casting Co., the Railway Steel Spring Co., Parke, Davis & Co., and the Packard Motor Car Co. I am director of the State savings bank and the Union Station & Depot Co., a director and member of the executive committee of the Union Trust Co., vice president and member of the executive committee of the Michigan State Telephone Co.

Q. In arriving at the value of the property of a railroad company by capitalization of its average net earnings for a period of years; given the net earnings after payment of taxes and charging to operating expenses sufficient to maintain the property against depreciation and keep it abreast of technical development, what would be a proper rate to use in capitalizing?

Mr. KNAPPEN: That is objected to for reason that it does not appear by examination of witness that his experience has rendered him competent to give answer to that question.

A. I would take 10 per cent. as the basis to arrive at valuation of railroad, or any other manufacturing proposition.

Mr. KNAPPEN: That is objected to for reason that it does not appear by examination of witness that his experience has rendered him competent to give answer to that question.

(Continuing:) In ascertaining average would desire to consider at least ten years.

Mr. KNAPPEN: That is objected to for reason that it does not appear by examination of witness that his experience has rendered him competent to give answer to that question.

(Continuing:) The net yield to investors in securities of a railroad company would not be a fair basis by which to arrive at the railroad's value; so many other things enter into the market
1022 quotations, that would not appeal to an individual, in arriving at its value, that they would not be an index of its value.

In 1902 I would have used a higher rate than 10 per cent. I have had occasion to invest, and advise in the investment of considerable sums of money; such experience extending over 17 years; have had occasion to estimate the value of a large property several times; in one case where we sold our interest in a corporation, worth about a million and a half we took an average of 17 years and we sold on a 6 or 7 per cent. basis.

Cross-examination by Mr. KNAPPEN:

This was a manufacturing corporation doing business in Detroit and in 1888 we capitalized its earnings on 6 per cent. basis for purpose of selling our interest.

I never had any experience in valuing steam railroad property as an appraiser, but have in organizing them, being an agent sometimes in helping to finance.

I am a stockholder in the Chicago & Northwestern, Chicago, St. Paul, Minneapolis & Omaha, and indirectly through the Cleveland Cliffs Co., in the Manistique & Southwestern.

I have been in two or three underwritings of several railroads; helped to finance the Detroit, Bay City & Alpena, in 1887 and 1888; its bonds bore 6 per cent. interest, and were taken by New York broker at about 92 or 95.

All there was of saleable value was the bonds, and it defaulted upon its mortgage, which was foreclosed. I participated in underwriting the Manistique, Marquette & Northern, a logging road; it was anticipated that after the forest products — removed the lands would develop into farming land. The earnings would decrease after timber was gone; my connection with this road was through the Union Trust Co.

I helped no other roads to finance; think there was a sinking fund in both the cases mentioned. They get larger
1023 return, per dollar of investment, today on high class railroad stocks and bonds than in 1902.

I have held a little Chicago & Northwestern stock 17 years; think the dividend is 5 or 6 per cent.; presume it sells now between 150 and 170 and in 1902 about 200; held stock in Chicago, St. Paul, Minneapolis & Omaha for about 17 years. Now pays 5, 6 or 7 per cent. dividends; the stock, I believe is controlled by the Northwestern; think the quotations about 110. Today you could get plenty of high class railroad bonds at 4 per cent.; in 1902 as low as $3\frac{1}{2}$ per cent.

I have looked at the valuation and earning power of railroads many times; if some bond house suggests investment, I look at the road, its condition and earning power and decide whether the security is such that we could accept the rate of interest provided in bond.

Primarily, I look at the security, you accept low rate on the bond because of the enormous security. The question is not so much of earnings as whether it makes bond absolutely safe; whether they will be met both in principal and interest; to be absolutely safe, it ought to earn just double the interest charged, to make low rate satisfactory; the nature of the business makes a great deal of difference in whether the rate is satisfactory.

There would be a difference between manufacturing stocks.

Q. Assuming corporation's life long enough to make a long time bond—30 years—would you make any difference as to earning capacity between a railroad and manufacturing company?

A. Of equal stability, no, it would make no difference. I had that in mind in giving rate of capitalization, I would make no distinction as to interest that should be earned on bank and railroad stocks; I would rather have smaller return on bank stock, it being more stable than railroad stock.

Banks in Michigan require double liability of stockholders for protection of depositors, stockholders in Michigan and Detroit have been called on to respond to that liability, I think the return 1024 to the investor on good bank stocks of Detroit is generally about 6 per cent.

On reflection the "Detroit National" bank stock pays on a basis of 4 per cent. above taxes; in fixing a ten year period I had in mind the depressed period of about 5 years from 1893 to 1898.

I would take ten years to cover the time, from 1893 to 1903, having in mind the lean period; I think railroad earnings have increased steadily in last 5 or 6 years, with the exception of 1903 (about which I do not know), would say that is true of net earnings.

Referring to the manufacturing business sold out on a 6 or 7 per cent. basis: In the 17 years taken into account, the earnings fluctuated greatly; the earnings, in percentage, were greater in 1888 than previously, this institution was Michigan Car Co. and associated industries, engaged in manufacture of cars; methods, development of machinery, etc. in the business, changed during the 17 years. The earnings during the 17 years did not furnish a good criterion of value in 1888 and had nothing to do with what we sold

at. At the beginning the earnings were very large and it ran through many years of depression with no net earnings.

Manufacturing plants are subject to considerable fluctuation and in buying stocks we take that into account; the idea is to get enough income in periods of prosperity to create a sort of sinking fund against years of unprofitable operation.

1025 H. D. WALBRIDGE, sworn for complain-t.

Direct examination by Mr. BUTTERFIELD:

I reside in New York city, am aged 47; and engaged in business of purchasing and reorganizing street railway, electric light and gas properties, for past ten years; reorganized 14 or 15 properties in New York, Michigan, Illinois, and Ohio, the largest being valued at seven to ten million dollars.

My personal part of the business has been to pass on the physical condition and present and prospective earning capacity of the property; I have had to do with four electric railways, the largest being Rochester Railway Co., with about 70 miles of track.

Q. In estimating the value of the property of a steam railroad company, by capitalization of average net earnings for a period of years; given the average net earnings, after the payment of taxes and charging to operating expenses sufficient to maintain the property against depreciation and keep it abreast of technical development, what rate would you use for capitalization?

Mr. KNAPPEN: That is objected to; it does not appear that witness is sufficiently expert or has had sufficient experience in valuation of steam railroad properties to render him competent to answer the question.

A. A basis of 8 per cent. would produce a rather excessive capitalization; we are assuming the property is an average property in good condition.

Subject to the same objection for period ending the second Monday of April, 1902 I would wish to consider, in ascertaining average of net earning, ten, and I think perhaps twenty years, this being based on my knowledge of the financial condition of country for the past 20 years.

Subject to the same objection on the rate there is no particular difference between April, 1902 and 1904.

The net return to investors in securities of the Michigan Central Railroad Company based on market value, I would say, has
1026 not the least effect on the proper rate to use in capitalizing the net earnings.

Cross-examination by Mr. KNAPPEN:

Until recently I have been principally connected with the gas business. Am still manager of the Grand Rapids Gas Light Co.,

being until 1897 actively so engaged; before leaving Grand Rapids in 1897, I had gas properties at Kalamazoo and Jackson under my management. To this time had had no experience in reorganization of properties, except gas plants.

The following properties I have been identified with as executive of companies,—reorganized: Pontiac Light Co., Saginaw Gas Light Co., Bartlett Illuminating Co., of Saginaw, Saginaw Valley Traction Co., Springfield Consolidated Railway Co., Springfield & Central Illinois Railway Co., Springfield Gas Light Co., People's Hot Water & Electric Heating Co., of Springfield, Springfield Electric Light & Power Co., Bay City's Consolidated Street Railway Co., Bay City Gas & Electric Co., Bay City Traction & Light Co., Rochester Railway Co., Rochester Gas & Electric Co., and Grand Rapids Gas Light Co.

Only one or two were reorganized on the same plan; as a rule they are bonded; for Grand Rapids Gas Light Co., at time reorganized (1895) the bond issue of \$1,225,000 was practically the cost of reproducing physical property; and stock was \$1,000,000.

The Jackson Gas Co. had a bond issue of \$225,000 or \$250,000; I never figured its relation to the cost of reproduction; the bonds were rather less than the cost of reproduction; the stock was \$250,000. In Kalamazoo the bond issue was \$300,000, from impression I would say that it was more than the cost to reproduce, I never figured on that basis; the stock was about \$300,000.

The Saginaw Railway & Light Co. is a holdings Company, and holds the securities of several distinct companies; the Saginaw City Gas Co., Bartlett Illuminating Co., Saginaw Valley Traction Co., Bay City Traction & Light Co. and Bay City Gas Co.

1027 The various properties have bonds; I never figured the relation the issues sustain to the cost or reproducing the properties; the rule in cases has been to issue bonds for cost to buy properties of owners and to add further equipment and improvements, and issue stock in addition; four companies organized on that basis,—Grand Rapids, Kalamazoo, Jackson and Pontiac.

All the companies mentioned were not organized on a basis of capitalization (including stock and bonds) considerably larger than cost of reproducing the properties; the Saginaw and Springfield properties as a whole were not. In the four properties, it has been the policy in reorganization to capitalize for amounts larger than the cost of reproduction, and by operation of the properties, to bring the stock up; this is not true of Saginaw, Bay City and Springfield properties. Stock of these companies at the beginning would not sell for par, a market won't pay par for it.

The reorganizers, by additional money invested in the property and good management, essential to make a good earning property, made the stock valuable; the bonds have borne 5% interest and have sold at various prices, 80 and upwards—after a number of years of better management and additional investment, as high as 102 or 103.

They usually are 20 or 30 year bonds; investors do not buy them at the same rate of return as municipal bonds, because issued by a manufacturing business venture, with risks and no credit aside from physical property and ability of management.

I do not know what leading railway stocks of the class of and including the Michigan Central brought during the past 6 or 7 years; are not able in beginning to sell gas bonds at same low rate of interest to investors as steam railroad bonds of this class would sell.

One reason for this is that the railroads have established business and their bonds are known, while the reorganization is a new business, with new management and its bonds are unknown.

1028 I have no personal connection with a steam railroad, or its organization, and have no knowledge of technical development of steam railroad properties.

Redirect examination :

In capitalization of the average net earnings of an average good gas plant, well managed, would use a higher rate than for a railroad—a rate of about 15%.

Recross-examination :

Grand Rapids gas plant is the largest in Michigan of those mentioned, in its present condition of capitalization has capitalized at about 11 or 12%. With bonds \$1,225,000 and stock \$1,000,000, there are obligations to the equivalent of \$3,000,000.

(Witness refuses to tell net earnings of Grand Rapids Gas Light Co. for last 3 or 5 years).

I have made no computation running over the last ten years to determine the rate; when I say 12% I base it on what any manufacturing industry would expect, as least basis of return on its money. It is different from ordinary return for money loaned, one is a safe business with securities, the other an extremely risky business with great hazards; the necessity of the product may be wiped out tomorrow and leave property on hand without any possible use. You must create sinking fund by larger returns to take care of depreciation of the property when through with it, the idea being that there is likely to be a substantial part of the present value of the property wiped out by change in the method of production or something being substituted for it; and to provide a fund that will, over and above dividends, and interest paid, insure the conduct of the business and insure against unfor-seen contingencies that arise in any business; I am trying to explain the difference between banking business and these numerous manufacturing and public service enterprises which are here today and away tomorrow.

1029 J. H. SIMPSON sworn for defendant.

Direct examination by Mr. McPHERSON :

Have been in the railroad business for 28 years; for last ten years (except two when with Southern railway) I was connected with ex-

ective department of Pere Marquette or its predecessors; from 1891 to 1894 and 1897 to 1903 was assistant to the general manager; since, assistant to vice-president.

In my present position I have become familiar with the method of handling accounts, showing the earnings and operating expenses of the Pere Marquette; the net earnings of entire Pere Marquette system, exclusive of interest and taxes, were: 1900 \$1,967,883; 1901, \$2,099,063; 1902, \$2,444,841.

These figures are from the annual report furnished for the board of directors; the figures in this and similar reports for 1901 and 1902 are substantially the same as those in the report to the railroad commissioner; and substantially same as those on which Prof. Adams bases his values; in arriving at the operating expenses as shown by that report, no allowance was made for depreciation in equipment or buildings or for sidings or branch tracks taken up.

I have prepared figures showing what allowance should be made for depreciation of equipment, ballast, bridges, culverts and rails. The amounts actually expended in improving physical assets and the amounts that should have been expended to keep them in as good condition as at the commencement of the year are as follows:

Item.	Amount expended.	Should have been expended in addition.	Total additional.
1900.			
Locomotives.....	\$389,469 91	\$172,500 00	\$561,969 91
Freight cars.....	383,336 00	293,044 00	
Passenger cars.....	189,030 00	126,000 00	
Ballast.....	71,029 00	34,090 00	
Bridges and culverts.....	100,425 00	10,425 00	
Rail.....	69,334 00	325,517 00	
Total shortage account items named.....			940,726 00
1901.			
Locomotives.....	434,297 00	208,000 00	
Freight cars.....	312,188 00	403,012 00	
Passenger cars.....	189,441 00	152,000 00	
Ballast.....	54,975 00	42,525 00	
Bridges and culverts.....	90,976 00	976 00	
Rail.....	73 755 00	176,245 00	
Total shortage account items named.....			980,806 00
1902.			
Locomotives.....	440,430 00	238,000 00	
Freight cars.....	348,774 00	529,401 00	
Passenger cars.....	158,650 00	152,000 00	
Ballast.....	81,053 00	16,444 00	
Bridges and culverts.....	96,392 00	1,392 00	
Rail.....	57,092 00	192,908 00	
Total shortage account items named.....			1,127,363 00

1030 In excess of amount necessary to properly maintain the property.

I am familiar with land grant of the Flint & Pere Marquette, the lands are being sold from year to year, the proceeds are credited to operating expenses, the net earnings being increased by the amounts realized from the sale; the amounts realized have been:

1900 \$11,394.09

1901 50,519.49

1902 21,764.00

There is no credit on account sidings or branch lines taken out; they are still allowed to stand as assets.

Referring to the annual report to the stockholders of the Pere Marquette for 1901, (p. 20) on which appears the construction account; items charged to that account do not appear in operating expenses; if items are charged to that account, which should appear in operating expenses, operating expenses should be so much more and net earnings so much less; the account starts with a debit balance of \$53,000,000; balance forward next year is \$54,800,000.

Q. Describe such items charged to that account as in your opinion represent merely the cost of keeping the road abreast of the times and are intended to maintain, rather than increase the net earnings.

A. Greenville and Putnam gravel pits, \$5,116 (should be included in operating expenses, as necessary part of maintaining track,—cheaper to buy pit than buy gravel.)

Real estate at Belding \$2,500 (new right-of-way to take place of one abandoned); real estate at Flint, Milford and on Chicago & North Michigan, \$49,755 (new right of way, the old reverting to owners when we changed track); locomotives \$25,591; cars, freight, \$142,535, passenger, \$58,067, (should be charged to operating expenses, as we charge nothing in our account for depreciation

1031 and it was proper and necessary to maintain the motive power and equipment to the standard of efficiency); changes of grade, \$292,274 (these changes made to enable road to maintain net earnings and meet competition).

\$314,375 for new rail to replace old rail, should have been charged to operating expenses.

In general improvement account, report of 1901 (p. 21) the following items should have been charged to operating expenses.

Plymouth coal station, \$3,692. (a transfer from one place to another, with no credit for tearing down); new machinery and tools, \$15,368 (replacing worn out machinery in shops — Saginaw and Ionia, no credit made on account of old machinery); new construction: Bridges, \$2,826, buildings \$30,831 (replacements of old bridges and buildings); \$114,000 for 4000 tons steel rail (used for renewal of main track rail).

Referring to the annual report to the directors for 1902 (p. 19) items charged to construction should have been charged to operating expenses as follows: New equipment, \$1,028,343 (this was expended to make good deficiencies in equipment the outgrowth of a

failure for a number of years to adequately provide for renewal; a portion represents renewals, a portion additional equipment); bonds of Michigan Equipment Co. \$143,000 (a payment of an installment on car trust bonds not provided for by sinking fund, issued several years before for the purpose of new equipment).

Paving Jefferson avenue, Bay City, \$6712 (a necessary part of obligation in connection with operation of track in street); passenger station, Bay City, \$12,809 (renewal); bridge over Grand river, \$42,724 (renewal); changes of grade, \$196,286 (necessary to enable road to meet competition, transport freight at a profit and maintain net earnings).

Port Huron ferry slip, \$15,012 (renewal); real estate for new yards, Grand Rapids, \$36,326 (portion of this at least, is proper charge to operation, as by the transfer of existing yards, earning capacity will not be increased, and land on which tracks now located can not be disposed of for cost). In all instances spoken of, where expenditures were made to renew or replace property, there has been no credit on account of former property and no yearly depreciation in equipment, buildings or other physical assets has been charged against operating expense.

Referring to the general improvement fund, same report (p. 20) the following should have been charged to operating expenses: Bridges \$40,187 (renewals); buildings, aggregating \$4,588 (renewals); interlockers, aggregating \$9719 (full, substituted for half, interlockers would not add to earning capacity,—required by State for protective purposes); Elmdale sinkhole, \$1356 (necessary track maintenance); re-survey, Saginaw district, \$6093 (necessary part of operation); new switch engines, \$34,129 (same as expenditure for new equipment).

The first statement of what should have been expended on certain items of physical property more than was expended is theoretical, based on annual depreciation, the second is made up from items actually appearing in the books the two will interlap more or less. During 1902, as in 1901, nothing was credited on account of sidings, spurs or commercial tracks taken up; they still appear on general balance sheet, in the construction account; when taken up, the natural thing would be to credit the construction account with the amount and charge it to operating expenses, indicating the track had been worn out in operation.

(Annual reports to directors for 1900, 1901 and 1902 offered in evidence, Ex. 1, 2 and 3, June 8, 1904.)

Had sufficient been charged to operating expenses to maintain the Pere Marquette property and equipment during 1901, 1902 and 1903 in as good condition as they were at the beginning of that period, the net earnings would have been: 1900, \$1,027,157; 1901, \$1,110,157; 1902, \$1,317,478.

These figures make no allowance for receipts from the sale of

trust lands used in operating expenses, if that correction (26)
1033 be made, the net earnings should be decreased by those
amounts. These figures do not cover depreciation or operat-
ing expenses, on other items than those specifically named.

It is not customary with the company to charge to operating ex-
penses many items which in my judgment should properly belong
and be charged there. Items, for equipment, charged to construc-
tion and general improvement accounts in 1900, 1901 and 1902 do
not, necessarily, belong to the operations of that year and should
not be confused with the figures for those years.

Cross-examination by Mr. KNAPPEN:

Data for reports (Exs. 1, 2 and 3, June 8, 1904) were prepared in
the auditor's office; I was as familiar with situation of the Pere
Marquette and the method of charging to operating expenses and
other accounts when these reports were made as I am now.

I knew then, as much as I know now, what the company's gross
or net earnings really were; these exhibits spoken of as reports to
the directors, are reports of the officers to the stockholders.

Their object was to furnish information to the stockholders of the
road's actual condition, earnings and operations and whether it
could afford to pay dividends; the report for 1900 (p. 15) states:

Interest charges.....	\$1,319,329.79
Surplus for year (difference between net earnings and interest charges)	646,189.56
Dividend on preferred stock (Feb. 11, 1901)	480,000.00
Balance (credited to general improvement fund for permanent improvements and betterments)	166,189.56

In the profit and loss account, Dec. 31, the operating expenses
interest charges, taxes and dividend are stated; the improvements
for 1900 are given at \$25,397.37; and the balance credited to gen-
eral improvement fund is \$140,792.19.

A. Four per cent. dividend was paid on the preferred stock, based
on this report. If my statement of net depreciation alone is taken
into account, there was not money enough to pay a dollar of
1034 dividend, but would have been a material deficit, and no
general improvement fund; I cannot tell why in profit and
loss account, the improvements were put in at \$25,397.37.

By stating to the stockholders that the improvements made after
paying operating expenses were \$25,397.37 it was meant to say that
after those improvements, operating expenses and dividends were
paid, there was still a balance in the general improvement fund of
\$140,792.19; that statement was true on the basis of the accounts as
kept, but not in fact, had we kept the property to standard we would
not have had that fund; all these reports were made for the same
purpose.

(Witness after examination of reports for 1901, 1902 and 1903 says he was mistaken in saying the receipts from sales of trust land grant lands were included in earnings for 1901, '2 and '3, and that those earnings should not be decreased by those amounts.)

In my direct testimony, I mean that to cover actual depreciation in locomotives, freight and passenger cars, ballast, bridges, culverts and rails, there should have been expended in 1900 \$940,726; 1901, \$980,806; 1902, \$1,127,363 more than was expended, to keep property up to requirements of the traffic, this should have been made as an arbitrary charge for depreciation or, an expenditure for maintenance.

The amount specified, should have been expended for new equipment, in order to keep it in number and character up to the requirements of the business; irrespective of taking care of the business, so far as the equipment is concerned, it is from time to time necessary to renew it and we would still require that many additional cars; so far as equipment is concerned we can eliminate the question of maintaining to meet competition.

In 1900 there was expended \$389,469.91 for locomotives and the additional need was \$172,500. In not using the amount specified, we have not maintained our equipment during the year; the maintenance figures were given by the auditor.

1035 I furnished the depreciation figures on equipment; took fifteen years for the life of locomotives, freight and passenger cars considered a depreciation about 7 per cent. per year; the figures of additional need to prevent depreciation of the balance were furnished by the chief engineer. I am not responsible for them.

I am responsible for the figures on locomotives and passenger and freight cars; as to ballast, bridges, culverts and rails, I rely on the authority of the engineer, and don't know the amount to take the place of actual depreciation, or to meet the requirements of business.

Q. The clause, report for 1900 (p. 8.) "An unusual large amount of work has been done upon the motive power and equipment belonging to your company, which has materially increased the operating expenses of the mechanical department, but has placed the equipment in excellent shape for the requirements made upon it," refers, does it not, to locomotives, freight and passenger cars?

A. Yes, sir.

Though not necessarily to those paid for out of operating expenses; while it says, "materially increased the operating expenses," it doesn't say that it was charged there. In comparison with previous years, we hadn't kept the equipment up; that is a general statement of the president, who wants to make things look "nice and read right;" he might, if put on oath, be a little more careful of what he says; the equipment referred to in this report (p. 7), costing \$705,000 was not paid for out of operating expenses. A portion of it was paid for by bonds and portion by car trusts. It is im-

possible to say what was covered by car trusts or bonds except by checking through mechanical department.

According to my testimony, the theoretical depreciation for 1900 was \$940,726 and the report to stockholders showed a nominal surplus of \$166,189.56 and a dividend of \$480,000.

Q. If your testimony is true, you lacked, after wiping out the surplus and dividends, \$294,536.44 of being able to pay the interest?

A. Yes, sir.

1036 In 1900 the percentage of expenses to earnings, exclusive of taxes, was 73.15, including taxes 73.31, which I should say was a very low percentage.

Q. What do you understand is the average?

A. There is no average.

Q. How do you know it is low?

A. No man can fix upon a particular percentage of operating expenses and say it is the ratio that should apply absolutely to any railroad. We cannot at any time maintain our property properly at any such per cent.

I stated that the depreciation on equipment, bridges, culverts and ballast, in 1901, would amount to \$980,806, that year we paid a dividend of \$420,446, and reported a surplus, after payment of dividend and operating expenses, of \$212,147.93; if my testimony as to the amount necessary to take care of depreciation, in the items named, is correct, we wouldn't have paid a dividend, but would have wiped out the surplus and lacked \$348,212.07 of being able to pay interest, out of net earnings.

Q. In report for 1901 (p. 7) is statement,—“The following expenditures have been made for betterments and are included in the amounts charged to operating expenses instead of the cost of property,” items aggregating \$185,666.29, so that that year was there charged to operating expenses that much on account of betterments?

A. Probably, but not necessarily. In these reports the words “operating expenses” are used carelessly.

The road makes reports to the railroad commissioner, Interstate Commerce Commission and State tax commission.

The operating expenses in the report to the Interstate Commerce Commission are required to be according to a certain classification; the report to State tax commission in practically the same form; in these reports probably (will not say they were not), all items from page 7, just read (aggregating \$185,000) have been included in the operating expenses to arrive at the net earnings.

1037 The rebuilding of 180 miles of lines (included in aggregate) is in no sense a betterment, but properly belongs to operating expenses; in the report to the Interstate Commerce Commerce, it is specially stated what is an improvement; if accountant deliberately falsified his judgment, it is not a correct report; the tax commission and interstate commerce reports are practically identical.

The renewal of rail is not betterment, even if heavier and better rail put in, and takes place of inferior rail; if 50 pound rail replaced with 90 pound, it would not be to the extent of the difference a betterment; the theory being that increased rail is necessary to meet the greater traffic and competition of the road. It is properly chargeable to operating expenses, as it makes no difference in net earnings.

The same is true of renewals of station buildings, bridges and culverts; if a wooden, is superseded by a modern stone bridge, all should be charged to operating expenses.

In 1902, according to the rules here given, it would take \$1,127,363 additional to take care of depreciation; the amount actually charged for equipment, ballast, bridges, culverts and rail was \$1,182,391. To reach net earnings of \$2,444,841.35 the following amounts were reported as paid out of operating expenses: Maintenance of equipment, \$1,040,473.87; maintenance of way and structures, \$1,480,422.42.

1038 In 1901, to reach net earnings of \$2,090,963.18, there was included in operating expenses, for maintenance of way and structures \$1,586,996.52, for maintenance of equipment, \$1,038,197.85.

In 1902, the Pere Marquette reported a surplus of \$993,136.79; and paid a dividend of \$420,416 out of surplus.

On the theory of my testimony of depreciation, and the amounts necessary to take care of it, on the items named, the depreciation would have wiped out the surplus and dividend and lacked \$146,226.21 of meeting interest.

The betterments charged to operating expenses may have increased the cost of reproduction but not the actual value of the road: part didn't increase efficiency in the least.

Q. The report to stockholders for 1902 (p. 13) says: "The new work which has been done and is in progress is in conformity with the policy established by your management and our improved physical condition of the property, particularly those divisions over which the heaviest traffic is handled, that the cost of operation may be reduced."

Is it worth more money if it is in shape to reduce the cost of operation?

A. From the standpoint of earnings, no. If the gross earnings remain the same, the net earnings are increased by the decrease in the cost of operation,—net earnings do not remain same; you can not maintain your gross earnings at all without this.

Q. The report also says: "In carrying out this policy large expenditures have been made in replacing wooden bridges with permanent structures of steel and cement. Real estate has been purchased at various points to relieve congestion and consequent expense at junctions and termini; new sidings and passing tracks have been built to facilitate the movement of trains, and new steel

has been laid and locomotives, freight cars and passenger cars added to your equipment, so that the physical condition of the property shows a marked improvement over the preceding year." Was that true?

A. That was, in part, true. It was written to create a favorable impression; it is a question of measurement, it might have been improved \$10,000 or \$500,000—there was some improvement.

The property was not worth more, because, as stated in the report (1901) of the purchase of 31 new engines; the company did not pay for them, it was not in the operating expense, the obligation was there to pay for them in our note or bond.

In 1900, there was added to the equipment 500 box, 200 coal and 10 caboose cars, costing \$520,000; 5 passenger, 10 freight and 1 switch engines, costing \$185,000;

In 1901, there was added 1,189 freight cars (net 1,011); 32 engines (net 30); 3 parlor and 2 passenger cars (1 passenger and 2 office cars destroyed and 1 baggage changed to caboose) (net 1 car).

In 1902, there was a net addition to locomotives of 16 and passenger cars, 13; addition to freight equipment, 731 cars and 27 caboose cars; I am not prepared to say this was a net addition; they were not charged to operating expense. As a rule scrapped cars are credited to renewal of cars and locomotives.

New rails were charged to operating expense; rails taken out were relaid at other points, so were not a loss; the labor of taking up, relaying, and expense of relaying was lost; as a rule where new rails are laid in main track, the rail taken from the main track is laid in the sidings or unimportant lines.

In 1900, the road did not progress so far, in betterments, as to reduce the cost of operation; in 1901, the cost of operation was reduced a small amount, and in 1902, a further reduction was made in the cost of train service, through the reduction of grades. In none of the years was it a large amount, because the work had not been completed and we did not get the benefit of the grade reductions made. In 1902, the percentage of expenses to earnings, exclusive of taxes, was 2.68 per cent., less than in 1901, and including taxes 1.83 per cent. less; don't think this due to increased equipment—that would increase expense.

The report for 1902 to stockholders (p. 5) stated:

"The new work begun in 1901, now almost completed, was intended to so improve the physical condition of your property that the cost of operation might be considerably reduced. This expectation is now being realized, and will be further reflected in the cost of operation of 1903."

This was true, but was dated April, 1903, and confirms that we got practically no benefit during 1901 and 1902, for moneys expended in grade reduction, as we had not proceeded far enough to operate under the reduction. While taxes for the year were larger and cost of fuel (November and December) materially increased, the operating expenses increased only \$292,828.79 and the gross reve-

nue increased \$754,199.87; the only way a road like ours can increase the net, is by increasing the gross earnings; operating expenses ought not to go up in proportion to the gross earnings; the higher the gross earnings, the smaller should be the percentage of operating expenses.

Q. The report to stockholders, 1902, stated :

"The rapid development and industrial progress in the territory served by your company is almost phenomenal. These appear to be of a character giving indication of permanency and substantiability." Was that true?

A. The statement is a glittering generality, in part true; we have had two or three years of phenomenal business development and it was reflected in the business condition of the Pere Marquette, we are now beginning to feel a reverse effect; the improvements are there, ready for prospective benefit when the traffic comes,—the results are for the future to determine.

1041 Taxes accruing in 1900 were paid the July following. The report for 1902 included taxes which were not paid when the report was gotten up in March, 1903, but were paid April 1st; they were charged off and the money was ready to pay them when the report was issued.

The amount reported for 1902, \$389,665.33, was paid on the specific basis, and includes specific taxes and local taxes, in Michigan, Indiana and Ohio. Item, \$389,665.33, does not take into account the tax as assessed by the State board, but only so much as paid, based on the old law; in that item we do not include an estimated amount under the ad valorem law.

(Witness agrees to furnish a statement showing the equipment purchased from 1900 to 1903, with details showing the prices and accounts to which charged.)

This statement is as follows:

**Statement of Equipment Purchased by Pere Marquette R. R. Co. During Years
1900, 1901, and 1902, Showing Total Cost and How Paid for.**

	Cost.	How charged.			
		Cost of road.	Improvement.	Operating expenses.	Car trusts.
1900.					
Locomotives.....	\$25,791 97			\$25,791 97	
Passenger cars.....					
Freight cars.....					
Total.....	\$25,791 97			\$25,791 97	
1901.					
Locomotives.....	\$221,659 29	\$221,659 29			\$221,659 29
Passenger cars.....	26,007 14	26,007 14			
Freight cars *.....	954,993 10	144,000 00		\$810,993 10	764,771 20
Total.....	\$1,244,659 53	\$391,666 43		\$810,993 10	\$986,430 49
1902.					
Locomotives.....	\$440,371 41	\$291,305 00	\$14,129 15		\$134,937 26
Passenger cars.....	129,999 07	129,999 07			
Freight cars.....	323,716 22	323,716 22		\$915,840 00	
Total.....	\$1,104,066 70	\$1,065,220 29	\$34,129 15	\$915,840 00	\$134,937 26

* Of the amount expended for freight cars in 1901, \$96,296.82 was for special equipment which was charged to operating expenses as follows:

1901.....	\$11,340 00
1902.....	15,840 00
1903.....	5,100 00
Total.....	\$32,280 00

1042 Paid to Car Trusts and Not Charged to Operating Expenses.

	1900.	1901.	1902.
Western Equipment Co.....	\$12,000 00	\$12,000 00	\$12,000 00
Michigan Equipment Co.....	24,000 00	24,000 00	10,000 00
Marquette Equipment Co.....	15,233 32	165,000 00	114,000 00
Total.....	\$51,233 32	\$141,000 00	\$136,000 00

Equipment Worn Out and Destroyed.

	1900.	1901.	1902.
Engines.....	16	6	3
Passenger coaches.....		4	1
Freight cars.....	216	166	282

The Pere Marquette was running lines of boats in 1901 and 1902. In the reports to the State authorities of the earnings of boats we simply put in the Michigan proportion of all earnings; my memory is not clear, but recollection is that we prorated the car ferry business on a mileage basis, and in break bulk business, credited the boats with a certain percentage of earnings, but not on a mileage basis; the boats were registered at Saginaw, and assessed and taxed locally.

I am not sure about this, for 1902, as there was some question about the tax for this year, because the State included boat earnings in its assessment originally; the boats were a part of the system from 1900 to 1902, and, except car ferry No. 15, were owned by company; part of the earnings of these boats were reported as earnings in Michigan to the railroad commission, I don't know how much.

"(Mr. KNAPPEN: I might say on the record, it appearing by the testimony of this witness that he is not himself responsible for the figures as to the depreciation or cost of maintaining ballast, bridges and culverts and rail, that I object to his testimony as incompetent so far as it relates to those subjects, and also as to buildings. * * *

Mr. KNAPPEN: I would like that there be added to this 1043 schedule we called for, the number of tons of heavier rail substituted for the old rail and showing each time, each year, the weight of the rail for which the substitution was made and the weight of the rail substituted.")

Redirect examination:

On examination, I find that the receipts from the land grants have been actually used in paying operating expenses; the force of Mr. Knappen's objection is that they happened to be carried to general improvement fund account and not brought into general account.

The reports to the stockholders, as published, are correct in every particular; there has been no attempt to hide, conceal or misrepresent anything. I have simply said that the reports show what we did charge to operating expense, but do not show what in addition ought to have been expended and charged there, to maintain the property; the statements in reports must be understood in connection with the accounts accompanying them, which show the actual facts. Though 90 pound rail has greater market value than 60 pound rail, the company cannot maintain itself without putting in the heavier rail.

It could not keep up gross earnings and would make a poorer showing in net earnings, without putting in improvements to keep abreast of the times; while heavier rail may increase market value of the rail, it does not necessarily increase the road's net earnings.

A large amount of new equipment was actually purchased (on practically the installment plan) which does not appear in operat-

ing expenses; on the advent of good times in 1900, the company took advantage of condition and attempted to make good the depreciation which should have been taken care of in the seven

1044 years preceding; even with the additions to equipment we have not fully succeeded in making good the depreciation.

We were unable to pay for such equipment as was purchased from operating expenses, and did so by the proceeds of bonds and by our trusts; the cost of such equipment does not appear in operating expenses and the title to the greater part of the equipment so added does not rest in Pere Marquette.

Recross-examination :

We added new equipment in 1900, 1901 and 1902. In each of those years there has been an increase in net earnings, over the preceding year; (the additional equipment did not increase net earnings, we had to maintain the old equipment) I don't believe in 1900 the additional equipment had any effect on the net earnings; in 1901 and 1902 additional equipment added somewhat to the gross earnings. The tendency of increase in gross, is to increase net earnings.

Increase in the operating expenses does not keep pace, with the increase in gross earnings; the tendency of railroad operations is to increase value of the physical property and the efficiency of the equipment for purpose of increasing earnings. Upon the proposition that the receipts from the sale of trust lands went to pay for betterments charged to operating expenses, report for 1901 (p. 21) shows balance at end of that year of \$32,000 more on hand, than at the beginning of the year, in general improvement fund.

Q. Wouldn't it be true then that only the difference between \$32,000 and \$61,930.58 (\$29,930.58) could have been included in improvements or gone to the credit of operating expenses?

A. Don't see exactly the force of it.

The year 1902 was started with a balance of \$172,000, the balance at the end of the year was \$254,870, or nearly \$82,000 more than the balance at the beginning, while the addition on account 1045 of the land department receipts was only \$21,764.

Ex 1. June 8. 1904

FIRST ANNUAL REPORT

OF THE

PERE MARQUETTE RAILROAD COMPANY,

FOR THE FISCAL YEAR ENDING

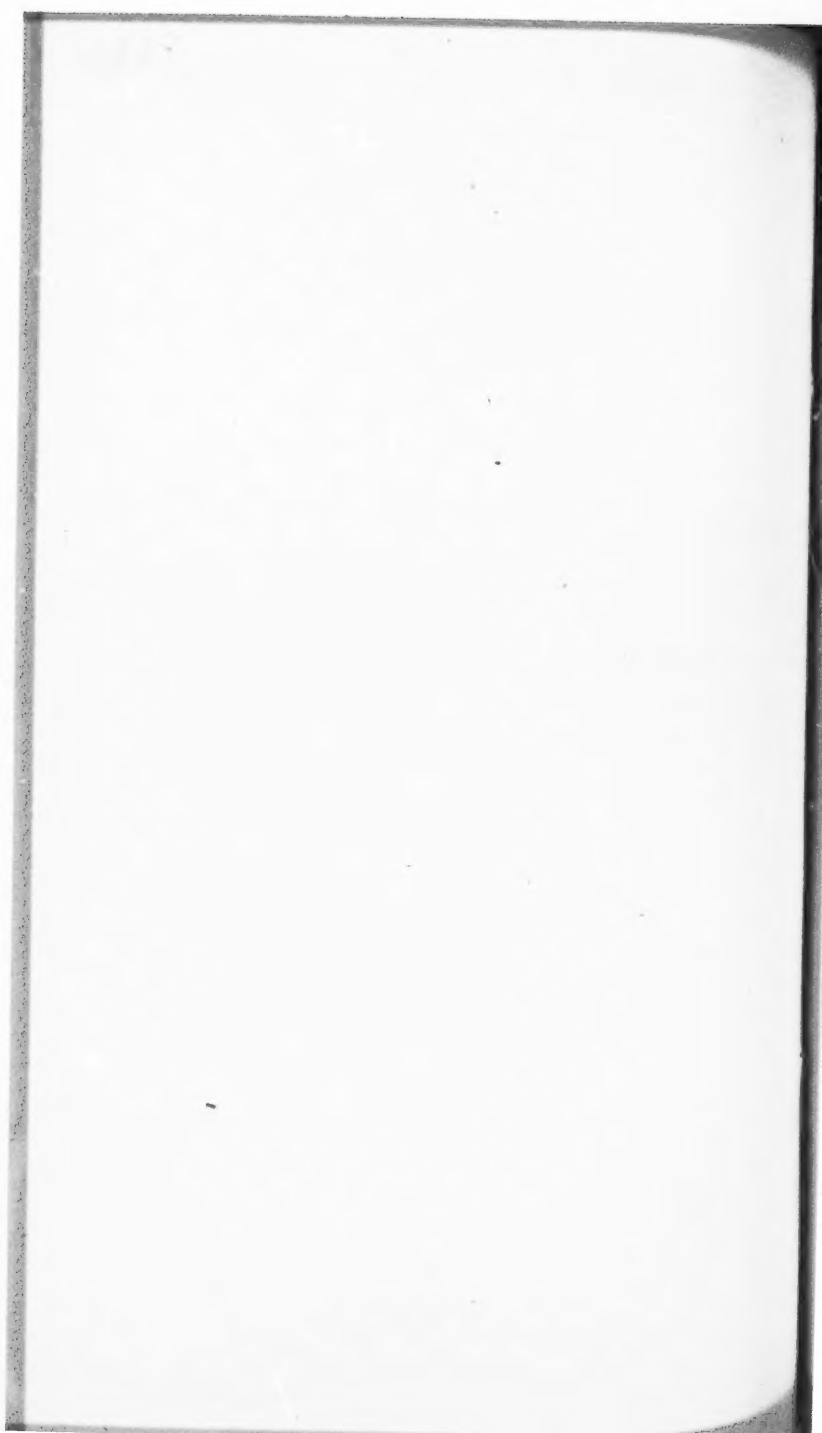
DECEMBER 31, 1900.

BOSTON:

T. W. RIPLEY, PRINTER.

1901.

1046



PERE MARQUETTE RAILROAD COMPANY.

DIRECTORS.

WM. W. CRAPO	NEW BEDFORD, MASS.
NATHANIEL THAYER	BOSTON. "
OLIVER W. MINK	" "
JOHN M. GRAHAM	" "
WALTER HUNNEWELL	" "
F. H. PRINCE	" "
CHARLES MERRIAM	" "
MARK T. COX	NEW YORK, N. Y.
THOS. F. RYAN	" "
CHARLES M. HEALD	DETROIT, MICH.
STANFORD T. CRAPO	" "

EXECUTIVE COMMITTEE.

WM. W. CRAPO, CHAIRMAN.

NATHANIEL THAYER.	OLIVER W. MINK.
THOS. F. RYAN.	F. H. PRINCE.
	MARK T. COX.

OFFICERS.

WM. W. CRAPO	CHAIRMAN OF THE BOARD.
CHARLES M. HEALD	PRESIDENT.
JOHN M. GRAHAM	VICE-PRESIDENT.
MARK T. COX	VICE-PRESIDENT.
CHARLES MERRIAM	SECRETARY AND TREASURER.
STANFORD T. CRAPO	GENERAL MANAGER.
H. C. POTTER, JR.	ASS'T SEC'Y AND COMPTROLLER.
A. PATRIARCHE	TRAFFIC MANAGER.

GENERAL OFFICES.

FORT STREET UNION DEPOT, DETROIT, MICH.

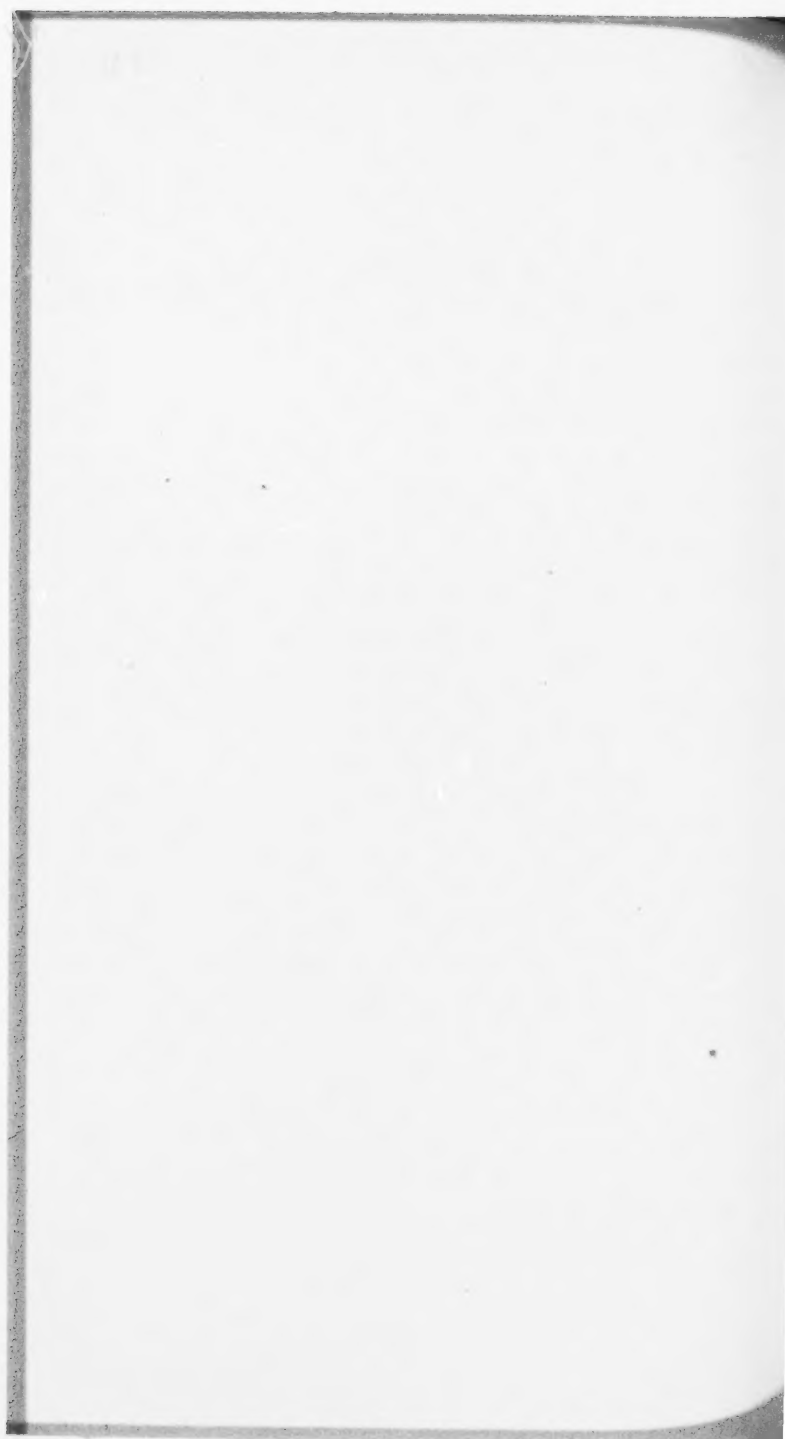
STOCK TRANSFER OFFICES.

50 STATE STREET, BOSTON.

40 WALL STREET, NEW YORK.

ANNUAL MEETING.

First Wednesday in May, at Detroit, Mich.



FIRST ANNUAL REPORT.

DETROIT, MICH., May 18, 1901.

To the Stockholders of the

Pere Marquette Railroad Company:—

Your Directors submit the following statement of the operations of the Company for the year ending December 31, 1900:

GROSS EARNINGS, INCLUDING EARNINGS OF LEASED LINES AND STEAMERS.

From Freight	\$5,540,188 87	
" Passengers	2,414,103 30	
" Mail, Express and Miscellaneous,	<u>341,819 50</u>	\$8,296,111 67

The expenses were:

Operating Expenses	\$6,068,701 03.	
Taxes	<u>261,891 29</u>	\$6,330,592 32
Net Earnings from Operations		\$1,965,519 35
Interest Charges		<u>1,319,329 79</u>
Surplus for the year		\$646,189 56
Dividend of 4% on Preferred Stock, Feb. 11, 1901 .		<u>480,000 00</u>
Balance, by vote of Directors, credited to a general improvement fund to be used for permanent improvements and betterments		<u>\$166,189 56</u>

The following Statement shows the Comparison of Earnings and Expenses of Pere Marquette Railroad for 1900 with the combined Reports of the

FLINT & PERE MARQUETTE RAILROAD,
CHICAGO & WEST MICHIGAN RAILWAY,
DETROIT, GRAND RAPIDS & WESTERN RAILROAD,
SAGINAW, TUSCOLA & HURON RAILROAD (11 months).

	1900. P. M. R. R.	1899. Combined Reports.	INCREASE IN 1900.
Gross Earnings . . .	\$8,296,111 67	\$7,368,794 49	\$927,317 18
Operating Expenses . . .	6,068,701 03	5,437,446 95	631,254 08
	\$2,227,410 64	\$1,931,347 54	\$296,063 10
Taxes	261,891 29	230,374 01	31,517 28
Net Earnings	\$1,965,519 35	\$1,700,973 53	\$264,545 82
Interest Charges.	1,319,329 79	1,289,420 38	29,909 41
Surplus	\$646,189 56	\$411,553 15	\$234,636 41

	1900.	1899.	DECREASE.
Percentage of Expenses to Earnings (exclusive of Taxes)	73.15	73.79	.64
Percentage of Expenses to Earnings (including Taxes)	76.31	76.92	.61

Realizing the importance of reducing the grades for the purpose of more economically handling the traffic on the lines over which the bulk of the freight traffic is to be handled, your management decided to establish the maximum grade at 26.4 feet to the mile. Arrangement for this was not made until the latter part of the year, so that the expenditure in this direction has been small comparatively thus far, amounting in the aggregate to about \$25,000. It is proposed, however, during the current year to continue this work to the end that the

maximum grade upon the main line between Toledo and Ludington will be brought to 26.4 feet per mile. This will involve work at five different points on the line, the aggregate expense of which will be \$280,000.

Your management has, also contracted for the construction of a new line from Greenville to Stanton, distance twelve miles, thereby reducing the distance between Grand Rapids and Saginaw twenty-one miles.

In addition to the above, the following improvements have been authorized and it is expected that they will be completed during the year 1901.

A double track steel bridge over Grand River at Grand Rapids; rebuilding of the Third Street freight depot at Detroit; construction of additional side and yard tracks at Delray, Plymouth, Grand Rapids and Ludington, with the acquirement of additional water frontage for the new car ferry slip at Ludington, — the estimated cost of these improvements being \$150,000.

In addition to the track improvements above noted, a contract was placed this year for 25,000 tons of 75-pound steel rail, with which to relay the main line of the road, in order to properly care for the increased weight of new power and equipment necessary to handle the increased traffic. The large majority of this rail will be laid in the year 1901.

The equipment of your Company has been materially increased by the addition, during the present year, of 500 box cars, 200 coal cars and 10 caboose cars, costing \$520,000; 5 passenger engines, 10 freight engines and 1 switching engine, costing \$185,000. In addition thereto, there have been ordered 500 box cars and 100 coal cars, costing \$445,000; 8 consolidated freight engines, 1 passenger engine and 1 switching engine, costing \$135,000; and 5 parlor and café cars, costing \$56,000.

A contract was also placed this year for a new car ferry boat, costing \$340,000, which will be delivered on or about July 1, 1901, the steadily increasing traffic across Lake Michigan making this addition to the marine equipment imperative. In order to better care for the increase in passenger traffic across Lake Michigan, Steamer No. 5 will be remodeled, at an expense of \$40,000, and placed, in connection with steamer No. 4, on the passenger route between Milwaukee and Holland, which was so successfully opened and operated the past season.

PERE MARQUETTE RAILROAD COMPANY.

An unusually large amount of work has been done upon the motive power and equipment belonging to your Company which has materially increased the operating expenses of the mechanical department, but has placed the equipment in excellent shape for the requirements made upon it.

MARQUETTE EQUIPMENT COMPANY, LIMITED.

To provide funds for the purchase of the greater part of the additional equipment, an Equipment Company bearing the above name has been formed under the laws of Michigan, and 5% bonds of same, dated October 1, 1900, and due October 1, 1910, guaranteed by the Pere Marquette Railroad Company, authorized to the extent of \$1,000,000. A sinking fund is provided by the Pere Marquette Railroad Company by a monthly charge to operating expenses by which one-tenth of the total amount of bonds is retired each year at par and accrued interest, and the privilege reserved by the Railroad Company to increase that amount or pay the entire issue at par and accrued interest at any time on sixty days' notice. \$136,000 of these bonds were sold during the past year and the proceeds used for the purchase of 200 coal cars. The proceeds of the balance of the bonds will be used on account of the cost of the additional equipment above mentioned, as it is delivered during the present year.

For further information in regard to the affairs of the Company reference is made to the following financial statements and reports of the Comptroller, and for statement of the Land Department to that of William W. Crapo, Trustee, on page 27.

Yours respectfully,

CHARLES M. HEALD,

President.

COMPTROLLER'S REPORT.

To Mr. CHARLES M. HEALD, *President.*

Dear Sir,—I herewith submit the following accounts and statements of the Pere Marquette Railroad Company for the year ending December 31, 1900:—

1. Condensed Balance Sheet.
2. Profit and Loss.
3. Funded Debt.
4. Description of Outstanding Bonds.
5. Classification of Tonnage.
6. Comparative Statement of Earnings and Expenses.
7. Comparative Detailed Statement of Operating Expenses.
8. Earnings and Expenses by months.
9. Freight Statistics.
10. Passenger Statistics.
11. Mileage.
12. Equipment.

Yours respectfully,

H. C. POTTER, JR.,

Comptroller.

PERE MARQUETTE RAILROAD COMPANY.

I. **CONDENSED BALANCE SHEET, DECEMBER 31, 1900.**

PROPERTY ACCOUNTS.		CAPITAL ACCOUNTS.	
Cost of Road Construction and Equipment	\$53,102,703 15	Capital Stock: Common	\$16,000,000 00
Equipment: Equipment Companies	416,000 00	Preferred	12,000,000 00
Stocks of other Companies	777,085 18	Funded Debt	\$28,000,000 00
			26,793,070 63
AVAILABLE ASSETS.		CURRENT LIABILITIES.	
Cash and Bills Receivable	910,512 29	Accrued Bond Interest	299,928 85
Material on hand	406,299 91	Unpaid Coupons	39,107 98
Open Accounts	968,978 29	" Vouchers	912,403 98
Trustees' Equipment Companies	13,000 00	" Taxes	232,067 38
Bonds in Treasury	175,000 00	Dividend of February 11, 1901	480,000 00
	\$56,769,578 82	Sinking Funds Equipment Bonds	13,000 00
			\$56,769,578 82

2. **PROFIT AND LOSS, DECEMBER 31, 1900.**

Operating Expenses	\$6,068,701 03	Gross Earnings	\$8,296,111 67
Interest Charges	1,319,329 79		
Taxes	261,891 29		
Dividend No. 1 on Preferred Stock, 4%, payable February 11, 1901	480,000 00		
Improvements, 1900	25,397 37		
Balance to General Improvement Fund	140,792 19		
	\$8,296,111 67		\$8,296,111 67

32. FUNDED DEBT.

DESCRIPTION OF BONDS.	Date of Issue.	When Payable.	Interest.		Amount Outstanding.
			When Payable.	Payable.	
Flint & Pere Marquette Railroad Company - - - - - See Note 1.	Oct. 1, 1886	Oct. 1, 1920	6%	April and Oct.	\$4,000,000 00
Holly, Wayne & Monroe Railway Company - - - - - See Note 2.	Jan. 1, 1871	Jan. 1, 1901	8%	Jan. and July	1,000,000 00
Flint & Pere Marquette Railroad Company (Consolidated) - See Note 3.	May 1, 1889	May 1, 1919	5%	May and Nov.	2,850,000 00
Flint & Pere Marquette Railroad Co. (Port Huron Division), See Note 4.	Apr. 1, 1889	Apr. 1, 1919	5%	Apr. and Oct.	3,500,000 00
Flint & Pere Marquette Railroad Company (Toledo Division), See Note 5.	July 1, 1897	July 1, 1917	5%	Jan. and July	400,000 00
Pere Marquette Transportation Company (Car Ferry) - See Note 6.	Oct. 1, 1897	\$20,000 annually Jan 1.	6%	Jan. and July	140,000 00
Chicago & West Michigan Railway Company - - - - - See Note 7.	Dec. 1, 1881	Dec. 1, 1921	5%	June and Dec.	5,738,000 00
Chicago & North Michigan Railroad Company - - - - - See Note 8.	May 1, 1891	May 1, 1931	5%	May and Nov.	1,667,000 00
Grand Rapids, Newaygo & Lake Shore Railroad Company - See Note 9.	June 1, 1875	June 1, 1905	7%	June and Dec.	19,000 00
Detroit, Grand Rapids & Western Railroad Company - See Note 10.	Apr. 1, 1897	Apr. 1, 1946	4%	April and Oct.	5,379,168 13
The Michigan Equipment Company, Limited - - - - - See Note 11.	June 1, 1892	June 1, 1902	6%	June and Dec.	181,000 00
The Western Equipment Company, Limited - - - - - See Note 12.	Apr. 1, 1889	Apr. 1, 1909	6%	April and Oct.	116,000 00
Marquette Equipment Company, Limited - - - - - See Note 13.	Oct. 1, 1900	Oct. 1, 1910	5%	April and Oct.	119,000 00
Saginaw, Tuscola & Huron Railroad Company - - - - - See Note 14.	Feb. 1, 1900	Feb. 1, 1931	4%	Feb. and Aug.	1,000,000 00
Chicago & West Michigan Railway Company, Coupon Scrip.					
Nov. 1, 1884	Nov. 1, 1904	Nov. 1, 1904	5%		
Dec. 1, 1884	Dec. 1, 1904	Dec. 1, 1904	5%		
May 1, 1895	May 1, 1905	May 1, 1905	5%		
June 1, 1895	June 1, 1905	June 1, 1905	5%		
Nov. 1, 1895	Nov. 1, 1905	Nov. 1, 1905	5%		
Dec. 1, 1895	Dec. 1, 1905	Dec. 1, 1905	5%		
May 1, 1896	May 1, 1906	May 1, 1906	5%		
June 1, 1896	June 1, 1906	June 1, 1906	5%		
Nov. 1, 1896	Nov. 1, 1906	Nov. 1, 1906	5%		
Dec. 1, 1896	Dec. 1, 1906	Dec. 1, 1906	5%		
May 1, 1897	May 1, 1907	May 1, 1907	5%		
June 1, 1897	June 1, 1907	June 1, 1907	5%		
Nov. 1, 1897	Nov. 1, 1907	Nov. 1, 1907	5%		
Dec. 1, 1897	Dec. 1, 1907	Dec. 1, 1907	5%		
May 1, 1898	May 1, 1908	May 1, 1908	5%		
June 1, 1898	June 1, 1908	June 1, 1908	5%		
Nov. 1, 1898	Nov. 1, 1908	Nov. 1, 1908	5%		
Total,					67,100,250 30 \$6,793,070 63

4.

DESCRIPTION OF OUTSTANDING BONDS.

NOTE 1.

Flint & Pere Marquette Railroad Company 6% Bonds of 1920. Outstanding \$4,000,000. Limit of issue \$5,000,000, including Holly, Wayne & Monroe Railway 8% Bonds \$1,000,000.

First mortgage upon the following mileage:

Holly to Ludington	188.00
Horton to Otter Lake	14.40
Saginaw to Bay City	12.5
	<hr/>
	214.90 miles.
Second lien Monroe to Holly	65. "

By the retirement of \$1,000,000 Holly, Wayne & Monroe Railway Company 8% Bonds January 1, 1901, and the issue of \$1,000,000 of Flint & Pere Marquette Railroad 6% Bonds of 1920, reduced to 4%, this mortgage becomes a first lien upon 65 miles of main line Monroe to Holly.

NOTE 2.

Holly, Wayne & Monroe Railway Company 8% Bonds, due January 1, 1901.

First mortgage on 65 miles of main line Monroe to Holly. (These Bonds were paid January 1, 1901.)

NOTE 3.

Flint & Pere Marquette Railroad Company Consolidated 5% Bonds of 1939. Outstanding and total that can now be issued, \$2,850,000. Original authorized issue \$10,000,000, including prior issues of Flint & Pere Marquette Railroad, as per notes one and two.

First Mortgage on the following mileage:

Delray to Oak	8.43
Saginaw Belt Line	10.14
Coleman to Mt. Pleasant	14.78
Coleman to Beaverton	10.06
Clare to Leota	27.
Merritt to Manistee	27.06
Sundry Short Branches	21.25
	<hr/>
	119.72 miles.

Second lien on mileage schedule in Note 1.

PERE MARQUETTE RAILROAD COMPANY.

723
13

NOTE 4.

Flint & Pere Marquette Railroad Company, Port Huron Division,
5% of 1939.

Amount outstanding and total authorized \$3,500,000.

First Mortgage on the following mileage:

Saginaw to Port Huron	90.30
Port Huron to Almont	34.09
Port Huron to Grindstone City . .	92.33
Palms to Harbor Beach	18.30

235.02 miles.

NOTE 5.

Flint & Pere Marquette Railroad Company, Toledo Division, 5%
Bonds of 1937. Amount outstanding and total authorized \$400,000.

First Mortgage on line from Alexis to Rasin 18.70 miles. Also
covers lease with Ann Arbor Railroad for trackage and terminals at
Toledo, Ohio.

NOTE 6.

Pere Marquette Transportation Company 6% Bonds. Outstand-
ing December 31, 1900, \$140,000. Original issue \$200,000. Reduced
by payment of \$60,000 of bonds maturing on Steel Car Ferry Steamer
"Pere Marquette."

Principal and Interest guaranteed by Flint & Pere Marquette
Railroad Company.

NOTE 7.

Chicago & West Michigan Railway Company 5% Bonds, due
1921. Amount outstanding \$5,758,000 and total that can now be issued.

First Mortgage on the following mileage:

LaCrosse to Traverse City	300.83
Berry to Big Rapids	51.60
Allegan to Pentwater	98.82
Mears to Hart	3.78
Cronje to Ottawa	6.25
Kirk to Muskegon	11.98
Fruitport Branch	1.76
South Horn Branch	5.11

480.13

14 PERE MARQUETTE RAILROAD COMPANY.

Subject only to \$19,000 Grand Rapids, Newaygo & Lake Shore Railroad 7% Bonds, due June 1, 1905, which are first mortgage on 10 miles Newaygo to White Cloud. See Note 9.

NOTE 8.

Chicago & North Michigan Railway Company 5% Bonds, due 1931. Amount outstanding \$1,667,000, and total that can now be issued. First Mortgage on line:

Boardman Junction to Bay View . . .	79.02
Williamsburg to Elk Rapids . . .	9.51
	<hr/>
	88.53 miles.

NOTE 9.

Grand Rapids, Newaygo & Lake Shore Railway Company 7% Bonds, due June 1, 1905. Amount outstanding \$19,000. First Mortgage on 10 miles Newaygo to White Cloud.

NOTE 10.

Detroit, Grand Rapids & Western Railroad Company 4% Bonds, due April 1, 1946. Amount outstanding \$5,379,168.13. Total that can be issued \$5,380,000.

First Mortgage on the following mileage:

West Detroit to Grand Rapids . . .	146.64
Paines to Belding . . .	100.57
Grand Ledge to Big Rapids . . .	93.24
Strong to Kiddville . . .	9.28
Remus to Weidman . . .	13.36
Mecosta to Barryton . . .	11.17
Chippewa Lake Branch . . .	5.47
	<hr/>
	379.73 miles.

NOTE 11.

The Michigan Equipment Company, Limited. Outstanding \$181,000, secured by 200 furniture cars, 325 box cars, 20 gondola cars and 6 locomotives.

NOTE 12.

The Western Equipment Company, Limited. Outstanding \$116,000, secured by 100 flat cars and 100 refrigerator cars.

NOTE 13.

Saginaw, Tuscola & Huron Railroad Company 4% Bonds, due February 1, 1931.

Amount outstanding and total authorized issue \$1,000,000.

First Mortgage on 65.79 miles Saginaw to Bad Axe and guaranteed by the Pere Marquette Railroad Company.

NOTE 14.

Chicago & West Michigan Railway Company 5% Scrip. Issued in part payment of coupons on C. & W. M. Ry. and C. & N. M. R. R. Coupons due 1894 to 1898.

NOTE 15.

Marquette Equipment Company, Limited. Outstanding \$119,000, secured by 200 coal cars.

5.

Classification and Tonnage of Freight for the Year 1900.

CLASSIFICATION.	TONNAGE.	TOTAL TONNAGE.	PER CENT.	TOTAL PER CENT.
Miscellaneous		311,625		5.49
Merchandise		478,620		8.44
Ice		39,832		.70
PRODUCTS OF AGRICULTURE:—		975,494		17.19
Grain	290,799		5.12	
Flour	109,664		1.93	
Other Mill Products	76,994		1.36	
Hay	180,516		3.18	
Fruit and Vegetables	190,103		3.35	
Potatoes	127,418		2.25	
PRODUCTS OF ANIMALS:—		114,347		2.01
Live Stock	58,991		1.04	
Dressed Meats	11,468		.20	
Other Packing House Products,	7,711		.14	
Poultry, Game and Fish	5,992		.10	
Wool	3,110		.05	
Hides and Leather	27,075		.48	
MANUFACTURES:—		624,757		11.01
Petroleum and Other Oils	32,002		.56	
Sugar	4,371		.08	
Iron, Pig and Bloom	61,669		1.09	
Iron and Steel Rails	62,578		1.10	
Other Castings and Machinery,	56,372		.99	
Cement, Brick and Lime	155,982		2.75	
Agricultural Implements	12,434		.22	
Wagons, Carriages, Tools, etc.,	17,901		.32	
Wines, Liquors and Beers	23,105		.41	
Household Goods and Furniture,	60,177		1.06	
Other Manufactures	138,166		2.43	
PRODUCTS OF FOREST:—		1,803,191		31.77
Lumber	1,585,826		27.94	
Logs	122,551		2.16	
Charcoal	31,632		.56	
Shingles	63,182		1.11	
PRODUCTS OF MINES:—		1,327,724		23.39
Anthracite and Bituminous Coal,	1,112,721		19.60	
Stone and Sand	164,026		2.89	
Salt	50,977		.90	
Total		5,675,599		100%

G.

Comparative Statement of Earnings and Expenses, 1900 and 1899.

RAIL AND MARINE EARNINGS.	1900.	1899.	INCREASE.	DECREASE.
From Freight	\$5,540,188.87	\$4,862,473.73	\$677,715.14	
" Passenger	2,414,103.30	2,165,685.22	248,418.08	
" Express	104,934.26	110,254.99		\$5,320.73
" Mail	219,723.80	213,322.39	6,401.41	
" Telegraph	6,848.27	6,520.59	327.68	
" Miscellaneous	10,313.17	10,537.57		224.40
	\$8,296,111.67	\$7,368,794.49	\$927,317.18	
RAIL EARNINGS.				
From Freight	\$5,126,550.79	\$4,456,880.36	\$669,670.43	
" Passenger	2,347,104.81	2,113,844.53	233,260.28	
" Express	103,734.26	109,054.99		\$5,320.73
" Mail	216,558.80	209,789.89	6,768.91	
" Telegraph	6,848.27	6,520.59	327.68	
" Miscellaneous	10,313.17	10,537.57		224.40
	\$7,811,110.10	\$6,906,627.93	\$904,482.17	
MARINE EARNINGS.				
From Freight	\$413,638.08	\$405,593.37	\$8,044.71	
" Passenger	66,998.49	51,840.69	15,157.80	
" Express	1,200.00	1,200.00		
" Mail	3,165.00	3,532.50		367.50
	\$485,001.57	\$462,166.56	\$22,835.01	
EXPENSES.				
General Expenses	\$202,904.33	\$216,336.21		13,431.88
Maintenance of Way and Structures	1,360,227.34	1,179,651.43	\$180,575.91	
Maintenance of Equipment	1,048,127.31	785,934.16	261,193.15	
Conducting Transportation	3,084,263.92	2,908,373.41	175,890.51	
Operating Marine Equipment, Taxes	373,178.13	346,151.74	27,026.39	
	261,891.29	230,374.01	31,517.28	
	\$6,330,592.32	\$5,667,820.96	\$662,771.36	
Net Earnings	\$1,965,519.35	\$1,700,973.53	\$264,545.82	
Interest Charges	1,319,329.79	1,289,420.38	29,909.41	
Surplus	\$646,180.56	\$411,553.15	\$234,636.41	
Average Expense ratio, including Taxes	76.31	76.92		0.61
Mileage of Road operated	1,821.29	1,843.95		22.66
Gross Earnings per mile	\$4,555.07	\$3,996.20	558.87	
Operating Expenses per mile,	3,475.88	3,073.74	402.14	
Net Earnings per mile	\$1,079.19	\$922.46	156.73	
Revenue Train Mileage, Fr't	3,211,422	3,135,436	75,986	
" " " Pass'r	2,956,718	2,960,299		3.581
Earnings, Freight Train Mile,	\$1.596	\$1.421	0.175	
" " " Pass'r Train Mile	0.794	0.714	0.080	

7.

Comparative Detailed Statement of Operating Expenses for the
Years 1900 and 1899.

GENERAL EXPENSES.	1900.	1899.	INCREASE.	DECREASE.
Salaries of General Officers	\$58,084 32	\$60,641 25	. . . . .	\$2,556 93
" " Clerks and Attendants	71,394 46	89,969 28	. . . . .	18,574 82
General Office Expenses and Supplies	9,326 80	10,240 02	. . . . .	913 82
Insurance	13,258 52	9,667 34	\$3,591 18	. . . . .
Law Expenses	33,374 09	18,923 18	14,451 51	. . . . .
Stationery and Printing (Gen. Offices)	10,839 59	5,377 28	5,462 31	. . . . .
Other General Expenses	6,625 95	21,511 26	. . . . .	14,885 31
Total	\$202,904 33	\$216,336 21	. . . . .	\$13,431 88
MAINTENANCE OF WAY AND STRUCTURES.				
Repairs of Roadway	\$779,669 73	\$632,045 56	\$147,624 17	. . . . .
Renewals of Rails	69,334 09	56,440 98	12,893 11	. . . . .
Renewals of Ties	253,117 98	265,158 58	. . . . .	\$12,040 60
Repairs and Renewals of Bridges and Culverts	100,425 31	46,223 00	54,202 31	. . . . .
Repairs and Renewals of Fences, etc.	35,590 15	42,756 10	. . . . .	7,159 95
Repairs and Renewals of Buildings and Fixtures	90,384 63	103,966 97	. . . . .	13,582 34
Repairs and Renewals of Docks and Wharves	7,863 16	14,072 71	. . . . .	6,209 55
Repairs and Renewals of Telegraph	11,697 67	10,346 79	1,340 88	. . . . .
Stationery & Printing (Way & Struc.)	1,836 12	1,175 69	660 43	. . . . .
Other Way and Structure Expenses	10,312 50	7,465 05	2,847 45	. . . . .
Total	\$1,360,227 54	\$1,179,651 43	\$180,575 91	. . . . .
MAINTENANCE AND EQUIP- MENT.				
Superintendence of Equipment	\$23,760 34	\$21,540 31	\$2,220 03	. . . . .
Repairs and Renewals of Locomotives	389,469 91	297,971 06	91,498 85	. . . . .
" " " Passenger Cars	180,030 11	136,556 95	52,473 16	. . . . .
" " " Freight Cars	33,336 55	285,129 94	97,196 61	. . . . .
" " " Work Cars	14,496 04	14,293 01	203 03	. . . . .
" " " Shop Machin- ery and Tools	22,549 68	9,788 86	12,760 82	. . . . .
Stationery and Printing (Equipment)	3,662 92	2,670 44	992 48	. . . . .
Other Equipment Expenses	22,421 76	18,783 59	3,638 17	. . . . .
Total	\$1,048,127 31	\$780,934 16	\$267,193 15	. . . . .

7.

Comparative Detailed Statement of Operating Expenses for the
Years 1900 and 1899.— *Continued.*

	1900.	1899.	INCREASE.	DECREASE.
CONDUCTING TRANSPORTATION.				
Superintendence, Transportation	\$90,895 23	\$73,565 03	\$17,330 20	
Engine and Roundhouse Men	511,414 79	469,483 44	41,931 35	
Fuel for Locomotives	555,659 22	491,040 61	64,618 61	
Water Supply for Locomotives	31,417 42	28,555 43	2,861 99	
Oil, Tallow and Waste for Locomotives,	20,675 47	15,630 66	5,044 81	
Other Supplies for Locomotives	9,095 56	7,066 64	2,028 92	
Train Service	387,481 21	349,028 75	38,452 46	
Train Supplies and Expenses	74,954 63	70,975 83	3,978 80	
Switchmen, Flagmen and Watchmen	204,636 89	180,930 48	23,706 41	
Telegraph Expenses	79,374 50	76,043 41	3,331 09	
Station Service	508,641 99	454,936 20	53,705 79	
Station Supplies	32,121 53	30,540 60	1,580 93	
Switching Charges	44,765 01	25,805 78	18,959 23	
Car Mileage	92,631 41	112,665 84		\$20,034 43
Hire of Equipment	14,563 27	19,195 31		4,632 04
Loss and Damage	23,646 87	42,216 70		18,569 83
Injuries to Persons	23,752 83	55,080 56		31,327 73
Clearing Wrecks	5,147 81	6,276 45		1,128 64
Advertising	27,989 18	28,491 20		502 02
Outside Agencies	75,172 39	73,890 34	1,282 05	
Commissions				
Stock Yards and Elevators				
Rents for Tracks, Yards and Terminals,	207,075 14	240,053 84		32,978 70
Rents of Buildings and other Property	517 53	3,970 76		3,453 23
Stationery and Printing (Transportat'n).	60,603 03	50,321 11	10,281 92	
Other Transportation Expenses	2,031 01	2,548 44		517 43
Total	\$3,084,263 92	\$2,908,373 41	\$175,890 51	
Total Rail Expenses	\$5,695,522 90	\$5,091,295 21	\$604,227 69	
LAKE TRANSPORTATION.				
Operating Marine Equipment	\$373,178 13	\$346,151 74	\$27,026 39	
Grand Total Rail and Lake	\$6,068,701 03	\$5,437,446 95	\$631,254 08	

8.

Gross Earnings, Operating Expenses, and Net Earnings by Months

Earnings.	January.	February.	March.	April.	May.	June.
Freight	\$382,423.67	385,944.66	452,217.66	429,281.81	429,025.88	402,892.60
Passenger	151,556.68	125,410.48	154,749.36	162,319.06	165,835.86	200,082.33
Express	8,627.11	8,511.46	8,565.90	8,617.73	8,617.73	8,863.79
Mail	17,595.93	17,689.89	17,880.84	17,493.91	17,460.84	17,377.43
Telegraph	472.57	439.51	509.12	471.08	542.16	602.36
Miscellaneous	460.69	343.87	1,012.63	662.78	735.20	846.90
Marine	35,195.74	39,152.27	46,980.94	52,794.44	26,097.18	37,282.88
Total	\$596,332.39	577,492.14	682,116.50	671,640.81	648,314.85	667,948.49

Operating Expenses.

Conducting Transportat'n.	\$241,592.08	238,325.17	265,544.59	259,124.00	246,104.76	257,041.79
Maintenance of Equipm't.	79,026.77	79,817.61	96,570.29	87,940.00	74,932.01	80,367.62
Maintenance of Way & Structures	88,174.91	88,069.60	91,436.98	98,207.66	122,148.12	136,081.94
General Expenses	17,271.71	15,697.62	16,924.56	15,583.67	15,640.85	15,954.30
Marine	23,595.35	26,379.15	34,807.44	31,497.96	31,982.79	28,438.98
Total	\$449,660.82	448,289.15	505,283.86	492,353.29	490,808.53	517,884.63
Taxes	18,470.54	16,811.18	19,635.78	20,404.64	22,231.55	21,139.01
Total Oper. Exp. & Taxes.	\$468,131.36	465,100.33	524,919.64	512,757.93	513,040.08	539,023.64
Net Earnings	\$128,201.03	112,391.81	157,196.86	158,882.88	135,274.77	128,924.85

8.

for Year Ending December 31, 1900.

July.	August.	September.	October.	November.	December.	Total.	Per cent. of Earnings.
361,000.06	432,156.86	471,061.39	488,141.45	432,835.59	459,569.16	5,126,550.79	61.79
241,435.01	279,569.87	237,911.29	301,881.87	218,780.99	207,371.81	2,347,104.81	28.29
8,643.10	8,669.24	8,668.20	8,650.00	8,650.00	8,650.00	103,734.26	1.25
17,445.94	17,475.84	17,924.42	18,446.22	17,490.84	22,276.70	216,558.80	2.61
471.67	710.06	587.69	681.34	797.69	563.02	6,848.27	.08
856.60	903.60	1,209.54	2.25	1,090.58	998.48	10,313.17	.13
40,235.36	49,031.53	43,319.36	40,465.35	33,125.32	41,321.20	485,001.57	5.85
670,087.74	788,517.00	780,681.89	759,458.48	712,771.01	740,750.37	8,296,111.67	100.00

248,139.34	267,416.94	266,798.84	260,376.98	254,433.74	279,365.69	3,084,263.92	37.18
88,017.86	87,159.75	85,104.84	96,708.23	100,107.68	92,374.65	1,048,127.31	12.63
132,558.90	144,140.29	133,770.34	117,195.24	102,953.82	105,489.54	1,360,227.34	16.39
15,844.36	14,919.10	16,030.71	16,271.04	17,666.25	25,100.16	202,904.33	2.45
31,035.54	30,771.60	30,752.30	35,080.83	24,034.83	44,801.36	373,178.13	4.50
515,596.00	544,407.68	532,457.03	525,632.32	499,196.32	547,131.40	6,068,701.03	73.15
21,711.88	25,050.90	24,784.32	23,801.74	24,318.41	23,531.34	261,891.29	3.16
537,307.88	569,458.58	557,241.35	549,434.06	523,514.73	570,662.74	6,330,592.32	76.31
132,779.86	219,058.42	223,440.54	210,024.42	189,256.28	170,087.63	1,965,519.35	23.69

9.

Freight Statistics, 1900.

Earnings from freight traffic	\$5,126,550 79
Number of tons of freight carried	5,675,599
Number of tons of freight carried one mile	639,329,323
Average distance per ton carried	112.64 miles
Earnings per ton per mile	cents 0.8019
Tons per loaded car	13.8
Loaded cars per train	14.2
Tons per freight train	195.96
Earnings per freight train mile	\$1.59
Earnings from steamers	\$413,638.08
Tons of freight	897,728
Average per ton	cts. 51.224

10.

Passenger Statistics, 1900.

Earnings from passenger traffic	\$2,347,104.81
Number of passengers carried	2,853,495
Total passengers carried one mile	105,760,378
Average distance per passenger carried	37.06 miles
Average earnings per passenger mile	cents 2.18
Earnings from steamers	\$66,998.49
Passengers carried	30,316
Average per passenger	\$2.21

Gross earnings per revenue train mile	\$1.26
Expenses and taxes per revenue train mile . . . . .	.96
Net earnings per revenue train mile . . . . .	.30

II.

STATEMENT OF MILEAGE.

	Main Track.	Branch Track.	Business Producing Branches.	Sidings.
Toledo Division.				
Alexis to Saginaw	130.75			69.33
Ottawa Yards				12.31
Raisin to Warner		2.97		
Horton to Fostoria		19.51		1.42
Saginaw Belt Line		10.14	1.71	18.30
Jamestown Branch		5.26		.64
Zilwaukee Branch		2.51		3.50
West Shore Branch		1.68		3.07
	<u>130.75</u>	<u>42.07</u>	<u>1.71</u>	<u>108.57</u>
Bay City Division.				
Saginaw to Bay City	17.77			10.98
(Including Loop Line)				
Crow Island Branch		1.55		.59
Bay City Belt Line — Leased		6.25		5.53
	<u>17.77</u>	<u>7.80</u>		<u>17.10</u>
Ludington Division.				
Saginaw to Ludington	137.65		9.64	55.04
Coleman to Mt. Pleasant		14.78		1.59
Coleman to Beaverton		11.06	7.91	3.08
Clare to Leoto		27.00		4.43
	<u>137.65</u>	<u>52.84</u>	<u>17.55</u>	<u>64.14</u>
Manistee Division.				
Merritt to Manistee	27.06		4.40	7.15
Port Huron Division.				
Saginaw to Port Huron	90.30			18.67
Port Huron to Almont		34.09		3.79
				<u>22.46</u>
Port Austin Division.				
Port Huron to Grindstone City	92.33			12.53
Palms to Harbor Beach	18.30			1.95
	<u>110.63</u>			<u>14.48</u>
Saginaw, Tuscola and Huron Division.				
Saginaw to Bad Axe — Leased	65.79			17.91

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STATEMENT OF MILEAGE—Continued.

	Main Track.	Branch Track.	Business Producing Branches.	Sidings.
Petoskey Division.				
Grand Rapids to Traverse City . . .	148.55		2.74	36.09
Williamsburg to Elk Rapids . . .		9.51	1.26	3.69
Clary to Honor		9.62		1.80
Rapid City to Stratford—Leased . .		32.90	5.42	6.57
Ironton Branch		1.38		
Gerber Branch			3.43	.46
Finch Creek Branch			3.34	.30
Essex Branch			2.69	.36
Boardman Junction to Bay View . .	79.02			17.30
	227.57	53.41	18.88	66.55
Big Rapids Division.				
Berry to Big Rapids	51.98			4.95
Muskegon Division.				
Allegan to Pentwater	98.82			27.78
Mears to Hart		3.78		2.18
Cronje to Ottawa Beach		6.25		.96
Kirk to Muskegon		11.98		5.11
Fruitport Branch		1.76		.44
South Horn Branch		5.11		6.57
North Horn Branch			2.28	.95
Belt Line			1.15	1.13
	98.82	28.88	3.43	45.12
Detroit Division.				
Delray to Grand Rapids (Exclusive of M. C. track, Lansing to No. Lansing)	146.68			36.99
West Detroit to Oak		8.49		4.14
Freeport to Elmdale—Leased . . .		6.47		.81
College Branch			1.70	.37
Reeds Lake Branch			2.54	.57
	146.68	14.96	4.24	42.88
Saginaw Division.				
Elmdale to Paines (Includes 22.47 miles, Elmdale to Belding—Leased) . . .	123.04			22.86
Town Line Lake Branch			2.38	.34
	123.04		2.38	23.20
Ionia Division.				
Grand Ledge to Big Rapids	93.24			23.98
Strong to Kiddville		9.28		.49
Remus to Weldman		13.36		1.57
Mecosta to Harryton		11.17		2.69
Rodney to Chippewa		5.47		.78
Lyons Branch . . . . .			.99	.40
Sterling Branch			1.59	.07
	93.24	39.28	2.58	29.98

PERE MARQUETTE RAILROAD COMPANY.

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STATEMENT OF MILEAGE — Continued.

	Main Track.	Branch Track.	Business Producing Branches.	Sidings.
La Crosse Division.				6.38
La Crosse to New Buffalo	37.61			
Chicago Division.				49.90
New Buffalo to Grand Rapids	114.67			
Totals	<u>1,473.56</u>	<u>273.33</u>	<u>55.17</u>	<u>520.77</u>
Leased Lines Operated Jointly with Other Companies.				
Lansing to North Lansing (M. C. R. R.),	1.04			
Mershon to Paines (M. C. R. R.)	6.70			
Alexis to Toledo (A. A. R. R.)	6.63			
Third St. to 18th, Detroit (F.S.U.D.Co.),	1.36			
Delray to 18th St., Detroit (D. U. R. R., D., & S. Co.) (One main track owned by Pere Marquette R.R. Co. Sidings owned jointly with Wabash R. R. Co.),	3.24			3.44
	<u>18.97</u>			
12th St. Yards, Detroit (Owned by Pere Marquette R. R. Co., used jointly)				5.51
				<u>8.95</u>
Total Sidings				<u>529.72</u>
Owned Jointly with Other Companies.				
Detroit and Mackinac Bridge, Bay City,	.26			
Leased to Other Companies.				
Bay City Belt Line (to M. C. R. R. Co.)		1.88		<u>2.18</u>

RECAPITULATION.

Main Track	1,473.56
Branches	273.33
Business Producing Branches	55.17
Leased Lines operated jointly with other Companies	18.97
Owned jointly with other Companies . . . . .	.26
Total Main Track and Branches	<u>1,821.29</u>
Sidings	<u>529.72</u>
Total Track	<u>2,351.01</u>
Leased to other Companies: —	
Bay City Belt Line (To M. C. R. R. Co.)	1.88
Bay City Belt Line Sidings (To M. C. R. R. Co.)	2.18

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12.**EQUIPMENT.**

December 31, 1900.

Locomotives	224
Passenger cars	308
Express and baggage cars	63
	<u>271</u>
Box cars	4,347
Stock cars	91
Platform and gondola cars	3,506
Way and cabin cars	101
Miscellaneous: Tools, kitchen, water supply, wood, cinders, derricks, pile drivers, snow plows, etc.	81
	<u>8,126</u>

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LAND DEPARTMENT.

DETROIT, MICH., January 1, 1901.

TO CHARLES MERRIAM, *Treasurer.*

Herewith I submit statement of the business of the Land Department during the year 1900:—

There was sold by the Land Commissioner 2,001⁸¹/₁₀₀ acres at an average price of \$6.05 per acre, amounting to \$12,111.34.

The receipts during 1900 from land sales and land contracts were as follows:—

Principal	.	.	.	.	.	.	.	.	.	.	.	\$15,884	51
Interest	.	.	.	.	.	.	.	.	.	.	.	4,968	93
												<u>\$20,853 44</u>	

Payments have been made for Taxes and

Sundry Expenses	.	.	.	.	.	.	.	.	.	.	.	\$7,884	35
Expenses of Land Commissioner's Office	.	.	.	.	.	.	.	.	.	.	.	1,200	00
Trustee and Clerical Services	.	.	.	.	.	.	.	.	.	.	.	375	00
												<u>\$9,459 35</u>	
Balance paid to Charles Merriam, Treasurer	.	.	.	.	.	.	.	.	.	.	.	11,394	09
												<u>\$20,853 44</u>	

Bills Receivable on hand December 31, 1900:—

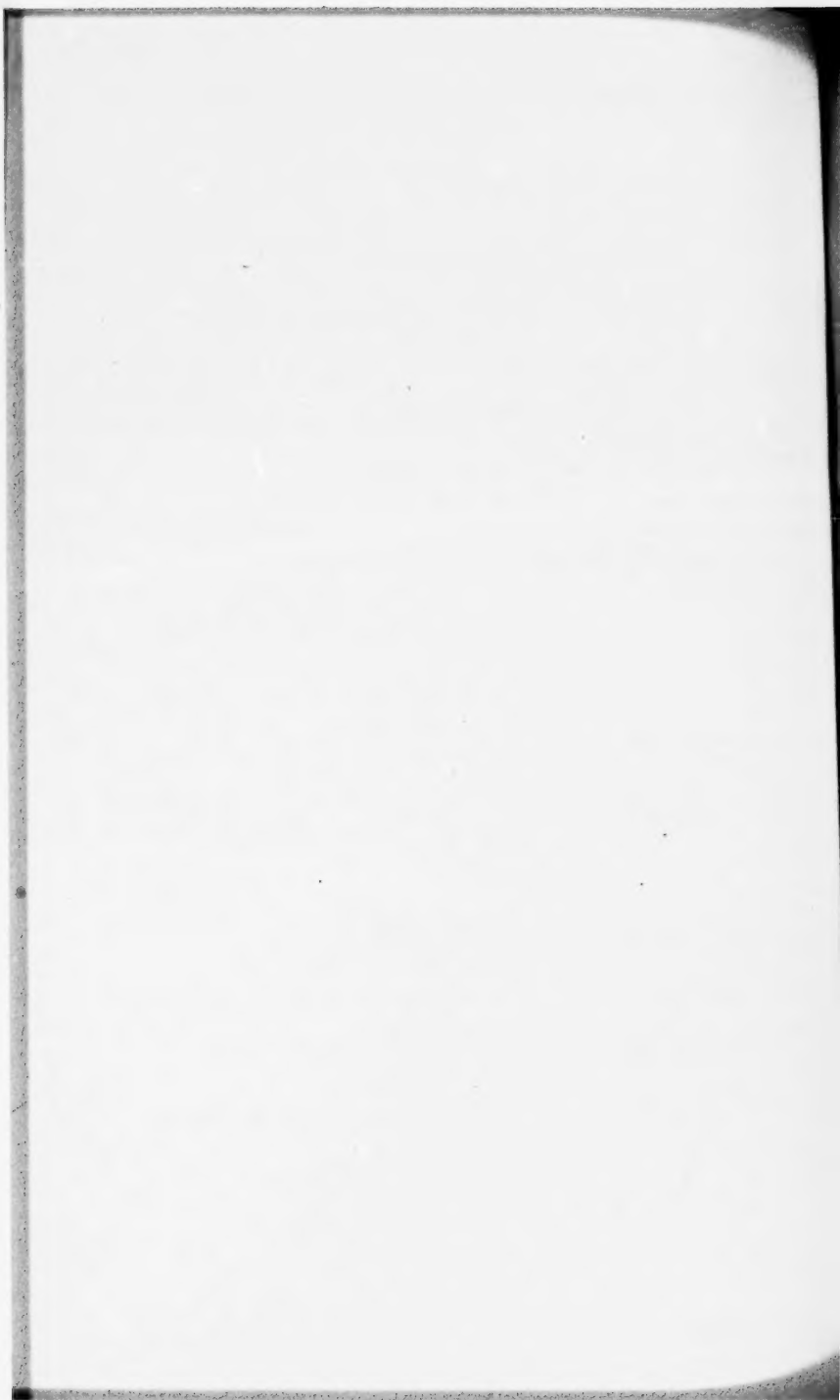
Principal	.	.	.	.	.	.	.	.	.	.	.	\$73,314	59
Interest	.	.	.	.	.	.	.	.	.	.	.	10,208	89
												<u>\$83,523 48</u>	

There remain unsold at this date 36,595⁷⁶/₁₀₀ acres of land.

WILLIAM W. CRAPO,
Trustee.

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[Ed. 3,000.]



Ex 2. June 8. 1904

SECOND ANNUAL REPORT

OF THE

PERE MARQUETTE RAILROAD COMPANY,

FOR THE FISCAL YEAR ENDING

DECEMBER 31, 1901.

BOSTON:

T. W. RIPLEY CO., PRINTERS.

1902.

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PERE MARQUETTE RAILROAD COMPANY.

DIRECTORS.

WM. W. CRAPO	NEW BEDFORD, MASS.
NATHANIEL THAYER	BOSTON, "
OLIVER W. MINK	" "
JOHN M. GRAHAM	" "
WALTER HUNNEWELL	" "
FREDERICK H. PRINCE	" "
CHARLES MERRIAM	" "
MARK T. COX	NEW YORK.
THOS. F. RYAN	"
CHARLES M. HEALD	DETROIT, MICH.
STANFORD T. CRAPO	" "

EXECUTIVE COMMITTEE.

WM. W. CRAPO, CHAIRMAN.

NATHANIEL THAYER.	OLIVER W. MINK.
THOS. F. RYAN.	MARK T. COX.
FREDERICK H PRINCE.	

OFFICERS.

WM. W. CRAPO	CHAIRMAN OF THE BOARD.
CHARLES M. HEALD	PRESIDENT.
JOHN M. GRAHAM	VICE-PRESIDENT.
MARK T. COX	VICE-PRESIDENT.
CHARLES MERRIAM	SECRETARY AND TREASURER.
STANFORD T. CRAPO	GENERAL MANAGER.
J. E. HOWARD	AUDITOR.
A. PATRIARCHE	TRAFFIC MANAGER.

GENERAL OFFICES.

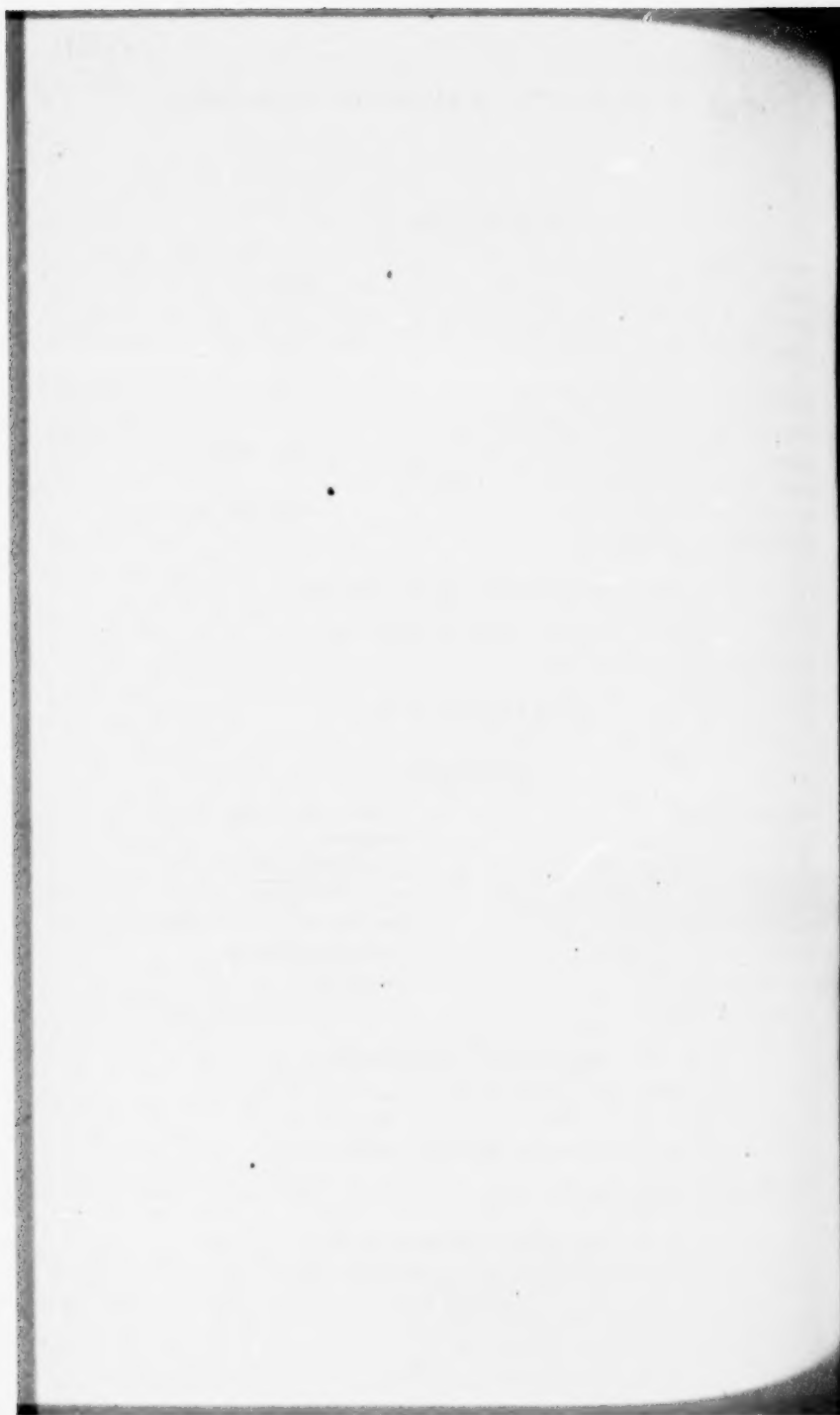
FORT STREET UNION DEPOT, DETROIT, MICH.

STOCK TRANSFER OFFICES.

50 STATE STREET, BOSTON. 40 WALL STREET, NEW YORK.

ANNUAL MEETING.

First Wednesday in May, at Detroit, Mich.



SECOND ANNUAL REPORT.

DETROIT, MICH., April 24, 1902.

To the Stockholders of the

Pere Marquette Railroad Company:—

Herewith is presented the statement of the operations of the Company for the year ended December 31, 1901.

MILEAGE.

The mileage of the railroads owned and operated by the Pere Marquette System, the main lines of which extend from Ludington, Mich., to Toledo, Ohio, and from Detroit, Mich., to Grand Rapids, Mich., and from Bay View, Mich., to New Buffalo, Mich., is as follows :

	Miles.	Increase.
Owned	1,655.49	13.54
Controlled by leases	104.94	
Total mileage owned and controlled	1,760.43	13.54
Trackage rights over railroads owned by other Companies	18.97	
Owned jointly with other Companies . . . . .	.26 19.23	
Total mileage operated	1,779.66	13.54

The increase in mileage was caused by the construction of the Greenville—Stanton cut-off, a distance of 12.19 miles and by main line "Y" connections, 1.35 miles, aggregating 13.54 miles.

EARNINGS AND EXPENSES.

The results of operations are shown in the following statements, which include the earnings and expenses of Leased Lines and Steamers.

PERE MARQUETTE RAILROAD COMPANY.

Gross Earnings		\$9,201,175 20
Operating Expenses		6,828,039 60
Net Earnings from Operation		\$2,373,135 60
Less Taxes		282,172 42
Net Income		\$2,090,963 18
Interest on Funded Debt	\$1,356,388 74	
Equip't Sinking Fund Payments,	152,500 00	1,508,888 74
Surplus		\$582,074 44
Dividend on Preferred Stock, excluding 14,878 shares in hands of Trustees appointed under readjustment plan :		
2% paid August 15, 1901	\$210,202 00	
2% paid February 15, 1902	210,244 00	420,446 00
		\$161,628 44
Add net proceeds from Land Department		50,519 49
Balance credited to General Improvement Fund		\$212,147 93
Ratio of Operating Expenses to Earnings—		
Exclusive of Taxes		74.21%
Including Taxes		77.27%

The following Statement shows the Comparison of Earnings and Expenses for 1901 and 1900 :

	1901.	1900.	INCREASE.
Gross Earnings	\$9,201,175 20	\$8,296,111 67	\$905,063 53
Operating Expenses	6,828,039 60	6,068,701 03	759,338 57
	\$2,373,135 60	\$2,227,410 64	\$145,724 96
Taxes	282,172 42	261,891 29	20,281 13
Net Earnings	\$2,090,963 18	\$1,965,519 35	\$125,443 83
Interest Charges	1,356,388 74	1,319,329 79	37,058 95
Equip't Sinking Fund Pay'ts	152,500 00		152,500 00
Surplus	\$582,074 44	\$646,189 56	Dec. \$64,115 12

PERE MARQUETTE RAILROAD COMPANY.

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	1901.	1900.	Increase.
Percentage of Expenses to Earnings (exclusive of Taxes)	74.21	73.15	1.06
Percentage of Expenses to Earnings (including Taxes)	77.27	76.31	.96

The following expenditures have been made for betterments and are included in the amounts charged to operating expense, instead of to cost of property : —

New stone and steel bridges	\$18,335.88
New sidings	55,413.11
Rebuilding 180 miles of main line, exclusive of rail	57,856.68
New buildings and docks	24,324.39
Remodeling Steamer No. 5	20,179.41
New switch engine	6,433.27
Real estate	3,114.25
	<u>\$185,656.99</u>

By vote of the Directors, the surplus earnings of the road for the year, amounting to \$161,628.44
together with the net receipts from the Land
Department for the year 1901, amounting to 50,519.49
a total of \$212,147.93
have been transferred to General Improvement Fund, to be
expended for betterments.

The remaining assets of the Land Department are conservatively estimated at \$115,000.00. (See the Trustee's statement appearing on the last page of this report.)

EARNINGS.

The gross earnings of your property for the year 1901 aggregate \$9,201,175.20, an increase of \$905,063.53 over the year of 1900, equal to 10.9%, and the expenses, exclusive of taxes, have increased \$759,338.57, equal to 12.5%, showing an increase in net earnings from operations of \$145,724.96, equal to 6.5%.

In explanation of the percentage of increase in expenses being greater than the percentage of increase in gross earnings, it should

be borne in mind that \$185,656.99 were expended for betterments, which was charged direct to operating expenses. The expenses were unavoidably increased by reason of the extensive changes and improvements which were being made in grade and alignment in the main line between Ludington and Toledo, causing delay in the handling of the regular traffic, resulting in greatly increased cost. The amount expended for betterments adds 1.4% to the percentage of increase in expenses.

EXPENSES.

MAINTENANCE OF WAY AND STRUCTURES.

The amount expended for the maintenance of way and structures was \$1,586,996.52, an increase of \$226,769.78 or 16.67%. This increase is principally accounted for by the building of additional tracks, increased amounts expended for renewal of ties, and repairs and renewals of buildings and fixtures, and increase in cost of material and labor.

A summary of the work done is shown herewith:

NEW STEEL RAIL LAID.

New steel on hand January 1st, 1901	1.680 miles.
New steel received during the year	211.367 "
	<hr/> 213.047 miles.

The disposition of this rail is as follows:

Laid on Ludington Division	75.446 miles.
" " Toledo	17.245 "
" " Saginaw	33.840 "
" " Chicago	4.488 "
" " Petoskey	17.760 "
" " Detroit	23.715 "
On new road between Greenville and Stanton	12.195 "
On hand January 1st, 1902	28.358 "
	<hr/> 213.047 miles.

The old steel which was released by the new steel was disposed of as follows:

Fifty-four miles was used to replace the poor rail in branch lines, and the poor rail thus released was sold as scrap. Forty-seven miles was used in laying new sidings; 12 miles of it is in temporary use where changes in grade have been made; 7 miles has been leased to individuals; 38 miles is still on hand, the balance having been sold as scrap.

The track was further improved by ballasting 127 miles, by constructing 9 miles of new passing sidings and by the laying of 93,924 cross-ties. There were also 38½ miles of new sidings and extensions built.

BUILDINGS.

The following new buildings were constructed:—Junction eating house at Baldwin; coaling stations at Flint, Plymouth and Grand Ledge; engine houses at Bay City, Plymouth and Baldwin; passenger stations at Thompsonville, Grant and Bay City; ice house and warehouse at Grand Rapids; power house, pump house and reservoir at Ottawa Beach; new shed and casting house for store department at Saginaw; and large addition to the freight house at Detroit, doubling its capacity.

Expensive repairs were made to the depot buildings at Carsonville, Flint, Greenville, Milford, Plymouth, Saginaw and LaPorte; to the shops, engine houses, scales and elevators at Ionia, Muskegon, Grand Rapids and Ludington; and to the dock and warehouse at Milwaukee; to the depot building and grounds at Pt. Aux Barques, and to the tanks and pumps at Oak, Watervliet and New Boston.

Fifty-six station buildings were painted and repaired.

Nine station platforms were repaired and replaced with concrete.

BRIDGES.

New bridges were constructed at Beaverton, Flint, Cheboyganing, Belvidere, Holland, Kent City and Belding.

Bridges at St. Joseph, Riverside, Hartford, McDonald, Newaygo, Whitehall, Shelby, Green Oak, Howell, Delta, Whitneyville, Rouge River, Bridgeport, North Bradley, Evart, Mayville, Yale, Elkton, Filion, Wayne, Plymouth, Grand Ledge, Ionia and Bay City, five bridges on the Mt. Pleasant Branch, and the bridge over the Michigan Central Railroad near Detroit, received general repairs.

One hundred and thirty-five feet of bridge openings in the track were filled and permanently closed.

Open culverts at Avoca, Plymouth, Milford, Farwell, Merahon, Wixom, Saginaw City Ditch and Rougemere were rebuilt with iron pipe.

Thirty-nine tile culverts were replaced with iron pipe, 9 with vitrified pipe, 9 were renewed with timber and 11 new cast-iron culverts were constructed.

New signal and interlocking devices were installed at New Richmond, St. Joseph, Charlevoix, Sebewaing, Alexis, Interlochen, Fordney, Trowbridge, Saginaw, Hartford and Malta.

New water tanks were built at Plymouth, Clio, Bay Port, Big Rapids, Flint, Grand Ledge, Kaleva, McGregor, Rapid City and Oak.

MAINTENANCE OF EQUIPMENT.

The cost of maintenance of equipment amounted to \$1,038,197.85, a decrease of \$9,929.46, as compared with the previous year.

LOCOMOTIVES.

Thirty-one new engines were purchased and 1 new switch engine was built at the Company's shops during the year, making a total addition of 32 new engines. There were sold during the year 2 light engines unsuited for our service and 4 engines were scrapped, making a net addition to the locomotive equipment of 26, showing a total number of locomotives on hand December 31st, 1901, of 250 as against 224 last year.

The total number of engines repaired in the Company's shops during the year was 241, of which 3 were rebuilt; 178 received heavy repairs; 60 received light repairs; 175 had their tires turned down; 55 had new tires applied; 183 had flues re-set; 26 received new flues; 3 had new frames applied; 14 had new fire boxes; 11 had new tanks; 5 had new tank frames; 24 had new drive-wheel centers; 64 had new drive-wheel axles; 24 had new driver brakes; 29 had new cabs; 29 had new cylinders; 32 had new asbestos lagging; 104 had new pilots; 133 had new piston rods; 55 had new ash-pans; 104 had new stacks; and 184 were repainted.

PASSENGER CARS.

There were three new parlor cars and two new passenger coaches purchased during the year. One passenger car was destroyed and two officer's cars, unfit for further use as such, and one baggage car were changed into cabooses, leaving a net increase to the passenger equipment of one car, making a total of 272 as against 271 last year.

Two hundred and fifty-one passenger cars were turned out of the Company's shops during the year, of which 4 were rebuilt, 125 received heavy repairs and 122 received light repairs. Twenty-one coaches were painted; 216 were repainted and varnished; 26 were re-upholstered with plush; 11 were re-upholstered with rattan, 6 had new seats applied; 24 had new trucks applied; 3 were equipped with acetylene gas; 17 received new head linings; 34 were equipped with Gould Continuous Buffer; 5 were equipped with wide vestibules; and 7 were equipped with quick action brakes.

Nineteen hundred and thirty-six new cast wheels, 322 new steel wheels and 621 new axles were applied.

FREIGHT CARS.

The following freight cars were purchased during the year: 1,000 box cars, 100 coal cars, 10 caboose cars and 44 work cars.

In addition, there were built in the Company's shops 1 box car, 8 flat cars, 4 coal cars, 13 caboose cars and 6 work cars, and, in addition, 3 passenger cars were changed to caboose cars, making a total addition to the freight car equipment of 1,189 cars.

There were destroyed and scrapped during the year 49 box cars, 4 furniture cars, 6 charcoal cars, 81 flat cars, 11 coal cars, 14 caboose cars and 3 miscellaneous cars, a total of 168, making a net addition to the freight car equipment of 1,021 cars. Total December 31, 1901, 9,280, as against 8,259 December 31, 1900.

Eighteen thousand, six hundred and seventy-seven freight cars were turned out of the Company's shops, of which 329 were rebuilt, 3,590 received heavy repairs and 14,758 received light repairs. Twenty hundred and twenty-four were painted; 72 were equipped with air brakes; 573 were equipped with Butler attachments; 380 were equipped with new decks; 498 were equipped with new roofs;

14 had air-brakes repaired; 3,096 had new draft timbers applied; 952 had new center sills applied; 627 had new side sills applied; 417 had new intermediate sills applied and 1,224 had new end sills applied.

Seven hundred and sixty-one automatic couplers, 185 new axles and 4,744 new wheels were applied.

Fifteen new pieces of machinery were purchased for the shops at Saginaw, Ionia and Muskegon.

CONDUCTING TRANSPORTATION.

The cost of conducting transportation amounted to \$3,581,268.51, an increase of \$497,004.59 or 16.11%. This is accounted for principally by the increase in traffic handled, both freight and passenger, the increase in tons moved one mile being 23.72%. The increase in freight train mileage was 10.92%, and the revenue tons per train mile were increased 15 tons or 7.24%.

The increase in the number of passengers carried one mile is 17%, while the increase in passenger train miles is only 8.8%.

There was also an increase in the cost price of coal and in the rate of pay of enginemen, trainmen, switchmen and stationmen.

MARINE EQUIPMENT.

The marine equipment consists of two steel car ferries of thirty cars capacity each, one wooden car ferry of twenty-six cars capacity, and four combination freight and passenger steamers. One of the steel car ferries was added to the fleet during the year, and an order placed for another for delivery in the fall of 1902.

GENERAL REMARKS.

The work of changing the grade of the main line between Ludington and Toledo was carried on during the entire year. The changes at Plymouth, Northville, Novi and Grand Blanc were nearly completed, and now require merely the addition of ballast and trimming off, which will be done during the spring of 1902. Considerable of the work between Ewart and Sears in changing the grade

and alignment was done during the year. It is expected to complete this work by the early fall of 1902.

The new road which was built between Greenville and Stanton shortens the line operated between Grand Rapids and Saginaw twenty-one miles, and should decrease the cost of operating this division.

The work on the extension of the Allegan Branch from its terminus into the village of Allegan was prosecuted during the past year, and will be completed and ready for use in the early part of this year.

The new work which has been done and is in progress is in conformity with the policy established by your management to so improve the physical condition of your property, particularly those divisions over which the heaviest traffic is handled, that the cost of operation may be reduced.

In carrying out this policy, large expenditures have been made in replacing wooden bridges with permanent structures of steel and cement; real estate has been purchased at various points to relieve congestion and consequent expense at junctions and termini; new sidings and passing tracks have been built to facilitate the movement of trains; new steel has been laid and locomotives, freight cars and passenger cars added to your equipment, — so that the physical condition of the property shows a marked improvement over the preceding year.

In addition, a new car ferry, with a capacity of 30 cars, has been added to the fleet. This will add still further to the earning capacity of your Company in handling the through traffic of the Northwest.

We have been fortunate in not having had any serious accidents or drawbacks during the year just passed, with the exception of the accident to your wooden car ferry No. 16, which, while entering Ludington harbor on the night of December 21st last, during a high sea, struck on an unknown bar and was seriously damaged, making it necessary to strand the vessel. She was subsequently floated and towed to Milwaukee, where she is undergoing repairs in the dry dock. She was fully insured.

CONSTRUCTION AND EQUIPMENT ACCOUNT.

During the year 1901 \$1,759,813.08 was added to Construction Account for the purchase of real estate; cost of changing grades and alignments at Plymouth, Northville, Novi, Grand Blanc, Ewart and Sears; for building a new short-line railroad from Greenville to Stanton; for building an extension to the freight house at Detroit; for the purchase of 1 locomotive, 100 coal cars, 100 box cars, 3 parlor cars and 2 café passenger cars; for the purchase of a new steel car ferry and 10,976.033 tons of new steel rail.

This amount of \$1,759,813.08, however, was reduced by various credits in the sum of \$33,335.59, so that the net increase to Construction Account for the year 1901 amounts to \$1,726,477.49, leaving the amount charged to this account December 31, 1901, \$54,829,180.64, as against \$53,102,703.15 on December 31, 1900.

INVESTMENT ACCOUNT.

There was an addition of \$293,302.12 to this account during the year 1901, accounted for as follows:—

By transfer from open accounts of the mortgages on the property of the Charlevoix Improvement Company, \$60,000; by the construction of a new hotel, with necessary furniture and fixtures, new water plant and electric light station at Ottawa Beach, \$76,282.50; and by the purchase of real estate at Detroit, \$157,019.62.

The mortgage on the property of the Charlevoix Improvement Company covers the resort land and improvements thereon, consisting of a large summer hotel and other buildings, situated at Charlevoix on the line of your road. The operation of this hotel during the summer months adds materially to the attractive features of Northern Michigan, thereby increasing the revenue the railroad receives from summer tourists.

The construction of the hotel at Ottawa Beach was made necessary by the great demand for such a resort from residents of Chicago and Southern Ohio and Indiana, and this expenditure has resulted beneficially to the road in increased freight and passenger earnings.

The operation of the hotel itself netted your Company 6 per cent. on the investment, in addition to freight and passenger earnings, and it should be a permanent source of income.

The land at Detroit was necessary to increase the terminal facilities at that point, to properly care for the large increase in business.

GENERAL IMPROVEMENT FUND.

Two hundred and eighty-seven thousand six hundred and forty dollars and sixty-four cents were added to this fund during the year 1901, making the total amount credited to this fund at the close of the year 1901 \$428,432.83. From this total of \$428,432.83 there was expended \$255,531.89, leaving an available balance of \$172,900.94 for any improvements in 1902 or thereafter.

A detailed statement of this account will be found with the Auditor's report.

This amount of \$255,531.89, added to the amount of \$185,656.99 previously referred to and charged to operating expense, shows a total of \$441,188.88 spent upon your property for its permanent improvement, without increasing its funded debt.

BONDED DEBT.

Holly, Wayne & Monroe Railway Company 8% bonds, due January 1, 1901, were paid, amounting to \$1,000,000.

Holders of Chicago & West Michigan Railway Company 5% coupon scrip, amounting to \$663,902.50, issued in part payment of coupons due 1894 to 1898 on Chicago & West Michigan Railway Company and Chicago & North Michigan Railroad Company 5% bonds, were notified that, in conformity with the terms of said scrip, it would all be called for payment, at par, November 1, 1901, and December 2, 1901. Of this amount there remained outstanding January 1, 1902, \$71,810, upon which interest had ceased.

To provide for above payments and for the cost of reducing grades, for new car ferry boat, cars and locomotives, new construction, etc., \$2,500,000 of the new consolidated mortgage 50-year 4% gold bonds of the Pere Marquette Railroad Company, due 1951, have been sold, but our interest charges due to the sale of these bonds will be increased only \$27,000 per annum on account of the reduction of the rate of interest to 4% per annum on \$1,000,000 of our bonded debt, formerly represented by Holly, Wayne &

PERE MARQUETTE RAILROAD COMPANY.

Monroe 8% bonds (which amount was provided by the sale of \$1,000,000 Flint & Pere Marquette Railroad Company 6% bonds, the interest on same being reduced to 4%), and by reduction of 1% on the \$664,000 represented by Chicago & West Michigan Railway Company coupon scrip, the total reduction in former interest charges amounting to \$46,000 per annum.

Eight hundred and seventy-nine thousand dollars Marquette Equipment Company, Limited, 5% bonds were sold during the year and to the date of this report, increasing the issue to \$998,000, which has been decreased during the year by the cancellation of \$74,000 bought at par through the operation of the sinking fund, leaving outstanding at this time \$924,000.

For further information in regard to the affairs of the Company, reference is made to the following financial statements and reports of the Auditor; and, for the statement of the Land Department, to that of William W. Crapo, Trustee, on page 33.

Respectfully submitted,

CHARLES M. HEALD,

President.

AUDITOR'S REPORT.

Mr. CHARLES M. HEALD, *President*,
Detroit, Mich.

Dear Sir, — I herewith submit the accounts and statements of the Pere Marquette Railroad Company for the year ending December 31, 1901:—

- A. Condensed Balance Sheet.
- B. Profit and Loss Account.
- C. Bonded Debt.
- D. Construction Account.
- E. General Improvement Fund.
- F. Additions to Investment Account.
- G. Comparative Statement, Earnings and Expenses.
- H. Classification of Freight Tonnage.
- I. Comparative Statement of Operating Expenses.
- J. Gross Earnings, Operating Expenses and Net Earnings by months.
- K. Freight, Passenger, Marine and Miscellaneous Statistics.
- L. Mileage Statement.
- M. Equipment.

Yours truly,

J. E. HOWARD,
Auditor.

PERE MARQUETTE RAILROAD COMPANY.

A.

CONDENSED BALANCE SHEET, DECEMBER 31, 1901.

PROPERTY ACCOUNTS.		CAPITAL ACCOUNTS.	
Cost of Road, Construction and Equip't	\$54,839,180 64	Common Capital Stock	\$16,000,000 00
Equipment: Equipment Companies	1,183,000 00	Preferred Capital Stock	13,000,000 00
Investments	1,410,491 83	Funded Debt	\$28,000,000 00
			29,447,978 13
AVAILABLE ASSETS.		CURRENT LIABILITIES.	
Cash and Bills and Accounts Receivable	734,904 48	Accrued Bond Interest	325,570 19
Material on hand	397,760 30	Unpaid Coupons	40,468 55
Open Accounts	807,699 42	Unpaid Vouchers and Pay Rolls	1,686,994 76
Trustees, Equipment Companies	60,959 48	Unpaid Taxes	256,957 04
		Unpaid Dividends (inc. Feb. 15, 1902)	211,968 00
		Sinking Funds, Equipment Bonds	60,959 48
			\$59,423,996 15

B.

PROFIT AND LOSS, YEAR ENDING DECEMBER 31, 1901.

Operating Expenses	\$6,828,039 60	Gross Earnings	\$9,201,175 20
Interest Charges	1,356,388 74		
Taxes	282,172 42		
Payments to Sinking Funds, Equip't Bonds	152,500 00		
Dividend No. 2, 2% on Preferred Stock	210,202 00		
Dividend No. 3, 2% "	210,244 00		
Balance carried to General Improvement Fund	161,628 44		
	\$9,201,175 20		\$9,201,175 20

C.

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Date.	When Due.	DESCRIPTION.	Amount.	Rate.	Annual Interest.
Jan'y 1, 1901	Jan'y 1, 1951	Pere Marquette Railroad Co. Consolidated Mortgage Gold Bonds. Authorized issue \$5,000,000. First mortgage on all the real estate and property of the Pere Marquette & R. Co. Subject to the following bonds issued by the Constituent Companies.	\$1,500,000 00	4%	\$60,000 00
Oct. 1, 1880	Oct. 1, 1920	Flint & Pere Marquette Railroad Co. Authorized issue, \$5,000,000. First mortgage upon 279.90 miles, Monroe to Ludington, Flint River Branch and Saginaw & Bay City Branch.	4,000,000 00	6%	240,000 00
Oct. 1, 1880	Oct. 1, 1920	Flint & Pere Marquette Railroad Co. (Reduced to 100%). Same as next bond described, except that interest is reduced to 10%.	1,000,000 00	4%	40,000 00
May 1, 1889	May 1, 1939	Flint & Pere Marquette Railroad Co. (Solidity). Authorized issue, \$2,500,000. First mortgage on 119.72 miles of branches, and second mortgage upon mileage covered by F. & P. M. First Mortgage noted above.	2,850,000 00	5%	142,500 00
April 1, 1889	April 1, 1939	Flint & Pere Marquette Railroad Co. (Pt. Huron Div.). Authorized issue, \$3,500,000. First mortgage on Port Huron Division, 235.02 miles.	3,500,000 00	5%	175,000 00
July 1, 1897	July 1, 1937	Flint & Pere Marquette Railroad Co. (Toledo Div.). Authorized issue, \$400,000. First mortgage on Toledo Division, 18.70 miles; also on the real estate, freight tracks and terminals with Ann Arbor R. R. at Toledo, Ohio.	400,000 00	5%	20,000 00
Oct. 1, 1897	\$20,000 annually.	Pere Marquette Transportation Co. Original issue, \$100,000. First mortgage on Car Ferry No. 15.	120,000 00	6%	7,200 00
Dec. 1, 1881	Dec. 1, 1921	Chicago & West Michigan Ry. Co. Authorized issue, \$575,000. First mortgage on the mileage formerly owned by the C. & W. M. Ry., 486.13 miles, except as stated next below.	5,758,000 00	5%	287,900 00
June 1, 1875	June 1, 1905	Grand Rapids, Newaygo & Lake Shore Railroad Co. First mortgage on ten miles Newaygo to White Cloud.	19,000 00	7%	1,330 00
May 1, 1891	May 1, 1931	Chicago & North Michigan Railroad Co. Authorized issue, \$1,667,000. First mortgage on line Boardman to White River, 75.02 miles.	1,667,000 00	5%	83,350 00
		Williamsburg to Elk Rapids 9.51 "			
April 1, 1897	April 1, 1946	Detroit, Grand Rapids & Western Railroad Co. Authorized issue, \$5,350,000. First mortgage on line formerly owned by T. & E. D., G. R. & W. R. R., 379.73 miles.	5,379,168 13	4%	215,166 72
Feb'y 1, 1900	Aug. 1, 1931	Saginaw, Tuscola & Huron Railroad Co. Authorized issue, \$1,000,000. First mortgage on line of S. T. & H. R. R., 65.79 miles.	1,000,000 00	4%	40,000 00
June 1, 1892	June 1, 1902	The Michigan Equipment Co., Ltd. Secured by 200 furniture cars, 355 box cars, 20 gondola cars and 6 locomotives.	157,000 00	6%	9,420 00
April 1, 1889	April 1, 1909	The Western Equipment Co., Ltd. Secured by 100 flat cars, and 100 gondola cars.	105,000 00	6%	6,300 00
Oct. 1, 1910	Oct. 1, 1910	The Marquette Equipment Co., Ltd. Secured by 900 box cars, 200 coal cars, 10 caboose cars and 17 locomotives.	981,000 00	5%	49,050 00
Various		Chicago & West Michigan Railway Co. Coupon Scrip. This Scrip has been all called in and interest on same has ceased.	71,810 00		
			\$59,427,978 13		\$1,414,216 72

D.

CONSTRUCTION ACCOUNT.

YEAR ENDING DECEMBER 31, 1901.

1901.

Jan. 1. To Balance

Additions during the year as follows:—		\$53,102,703 15
Discount on 1,000,000 F. & P. M. R. R. Co. 6% reduced to 4% bonds	\$10,000 00	
Discount on 2,500,000 P. M. R. R. Co. 4% bonds sold this year	212,500 00	
Recording Mortgage. P. M. R. R. Co. 4% bonds	1,330 37	
Engraving, Revenue Stamps and Countersigning 2,500,000 P. M. R. R. 4% Bonds	5,827 09	
Paid for Grandville Gravel Pit	2,078 60	
" Putnam Gravel Pit	3,038 40	
" Real Estate, Bay City	4,000 00	
" " Belding	2,500 00	
" " Grand Ledge	1,550 00	
" " Flint	4,910 00	
" " Plymouth	224 00	
" " Benton Harbor	500 00	
" " Milford	225 00	
" " C. & N. M. Right of Way	520 00	
" " Grand Rapids	101,578 38	
" " Toledo	9,451 50	
" " Lansing	15,780 00	
" " West Detroit	10,540 83	
" " Benton Harbor	2,057 75	
" Change of Grade, Plymouth, Northville and Novi,	130,339 46	
" " " Grand Blanc	91,665 11	
" " " Evart and Sears	70,280 37	
" New Road, Greenville to Stanton	163,807 17	
" New Car Ferry No. 17	336,266 15	
" Detroit Freight House Extension	38,283 02	
" New Equipment, Locomotives	25,591 50	
" " Freight Cars	142,535 38	
" " Passenger Cars	58,057 14	
" 10,976.033 tons New Steel Rail and Angle Bars @ \$28.63	314,375 86	1,759,813 68
		\$54,862,516 23

CREDIT.

By Amounts received from Flint & Pere Marquette R. R., Collection Account	\$1,681 25	
Amounts received from Chicago & West Michigan Ry., Collection Account	835 36	
Amounts received from Det., Grand Rapids & Western R. R., Collection Account	3,567 92	
Transferred from C. & W. M. Ry. Co. Books: Township of Forest Home Bonds	\$6,375 00	
Township of Kearney Bonds,	6,375 00	
St. Louis Cooperage Co. Property	2,515 25	
G. R., K. & S. E. R. R. Account	11,767 64	27,032 89
Amounts transferred from D., G. R. & W. R. R. Books, C. R., K. & S. E. R. R. Acct.	218 17	33,335 59
Dec. 31. Balance		\$54,829,180 64

E.

GENERAL IMPROVEMENT FUND.

JANUARY 1, 1902.

1901.	By Balance Jan. 1, 1901	\$140,792 19
Feb.	Dividend No. 1 on Preferred Stock in hands of Readjustment Committee	59,644 00
Dec.	Readjustment Committee D., G. R. & W. R. P., Balance of Account	4,454 62
	W. W. Crapo, Land Commissioner, Net Receipts, 1900	11,394 09
	W. W. Crapo, Land Commissioner, Net Receipts, 1901	50,519 49
	Balance of Profit and Loss Account for year 1901	161,628 44
		<u>\$428,432 83</u>

Dec.	To New Passenger Accommodations	
	Steamer No. 5	\$26,123 23
	Flint Coaling Station	3,588 70
	Grand Rapids Ice House	3,219 55
	Plymouth Coaling Station	3,692 42
	Plymouth new Wye	2,250 04
	New Machinery and Tools	16,368 29
	New Sidings	33,111 09
	New Construction, Bridges	21,826 86
	New Construction, Buildings	30,831 70
	4000 tons Steel Rail and Angle Bars @ \$28.63	114,520 00
		<u>255,531 89</u>
	Balance Jan. 1, 1902	<u>\$172,900 94</u>

F.

INVESTMENT ACCOUNT

ADDITIONS DURING YEAR ENDING DECEMBER 31, 1901.

Charlevoix Improvement Co. Mortgage	\$48,000 00	
Dixon Mortgage, Charlevoix Improvement Co. Property	12,000 00	\$60,000 00
Ottawa Beach Property, Hotel Improvements, Water Supply and Pump House	\$47,677 05	
Lighting Plant	5,529 32	
Furniture and Fixtures	8,321 53	
	14,754 60	76,282 50
W. W. Crapo, Trustee, Detroit property owned jointly with Wabash Railroad Co.		157,019 62
		<u>\$293,302 12</u>

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PERE MARQUETTE RAILROAD COMPANY.

G.

COMPARATIVE STATEMENT EARNINGS AND EXPENSES.

1901 AND 1900.

RAIL AND MARINE EARNINGS.		1901.	1900	INCREASE.	DECREASE.
From Freight		\$6,257,373.30	\$5,540,188.87	\$717,184.43	
" Passenger		2,573,936.62	2,414,103.30	159,833.32	
" Express		130,503.10	104,934.26	25,568.84	
" Mail		220,725.85	219,723.80	1,002.05	
" Telegraph		7,290.39	6,848.27	442.12	
" Miscellaneous		11,345.94	10,313.17	1,032.77	
		\$9,201,175.20	\$8,296,111.67	\$905,063.53	
RAIL EARNINGS.					
From Freight		\$5,753,533.36	\$5,126,550.79	\$626,982.57	
" Passenger		2,494,135.69	2,347,104.81	147,030.88	
" Express		129,296.86	103,734.26	25,562.60	
" Mail		217,605.85	216,558.80	1,047.05	
" Telegraph		7,290.39	6,848.27	442.12	
" Miscellaneous		11,345.94	10,313.17	1,032.77	
		\$8,613,208.09	\$7,811,110.10	\$802,097.99	
MARINE EARNINGS.					
From Freight		\$503,839.94	\$413,638.08	\$90,201.86	
" Passenger		79,800.93	66,998.49	12,802.44	
" Express		1,206.24	1,200.00	6.24	
" Mail		3,120.00	3,165.00		\$45.00
		\$587,967.11	\$485,001.57	\$102,965.54	
EXPENSES.					
General Expenses		\$199,389.13	\$202,904.33		3,515.20
Maintenance of Way and Structures		1,586,996.52	1,360,227.34	\$226,769.18	
Maintenance of Equipment		1,038,197.85	1,048,127.31		9,929.46
Conducting Transportation		3,581,268.51	3,084,263.92	497,004.59	
Operating Marine Equipment, Taxes		422,187.59	373,178.13	49,009.46	
		282,172.42	261,891.29	20,281.13	
Total		\$7,110,212.02	\$6,330,592.32	\$779,619.70	
Net Earnings		\$2,090,963.18	\$1,965,519.35	\$125,443.83	
Interest Charges		1,356,388.74	1,319,329.79	37,058.95	
Sinking Funds Equip't Bonds, Surplus		\$734,574.44	\$646,189.56	\$88,384.88	
		152,500.00	*	\$152,500.00	
		\$582,074.44	\$646,189.56		64,115.12
Average Expense ratio, including Taxes		77.27	76.31	0.96	
Excluding Taxes		74.21	73.15	1.06	
Mileage of Road operated		1,837.68	1,821.29	16.39	
Gross Earnings per mile		\$5,002.81	\$4,555.07	\$447.74	
Operating Expense per mile		3,865.92	3,475.88	390.04	
Net Earnings per mile		\$1,136.89	\$1,079.19	\$57.70	
Revenue Train Mileage, Fr't		3,562,343	3,211,422	350,921	
" " " Pass'r		3,217,524	2,950,718	266,806	
Earnings, Freight Train Mile, " " " Pass'r Train Mile		\$1.756	\$1.596	0.160	
		0.909	0.794	0.115	

* In 1900, payments on account of Sinking Funds Equipment Bonds were charged in Operating Expenses to Repairs of Freight Cars. Amount, \$69,333.32.

H.

23

CLASSIFICATION OF FREIGHT TONNAGE

FOR THE YEAR 1901.

COMMODITY.	TONNAGE.	TOTAL TONS.	PERCENT.	TOTAL PERCENT.
Miscellaneous		530,133		8.23
Merchandise		211,294		3.28
Ice		47,758		.74
PRODUCTS OF AGRICULTURE:—		1,226,446		19.04
Grain	307,370		4.77	
Flour	114,110		1.77	
Other Mill Products	94,714		1.47	
Hay	260,208		4.04	
Apples and Potatoes	284,813		4.42	
Other Fruits, Vegetables and Seeds	165,231		2.57	
PRODUCTS OF ANIMALS:—		138,392		2.15
Live Stock	57,953		.90	
Dressed Meat (fresh)	6,548		.10	
Packing House Product	29,676		.46	
Poultry, Game and Fish	5,125		.08	
Wool	8,218		.13	
Hides and Leather	30,872		.48	
MANUFACTURES:—		913,491		14.20
Petroleum and other Oils	45,792		.71	
Pig and Bloom Iron	73,824		1.15	
Iron and Steel Rails	61,255		.95	
Bar and Sheet Metal	11,571		.18	
Castings and Machinery	66,662		1.04	
Cement, Brick and Lime	201,704		3.13	
Agricultural Implements	18,397		.29	
Wagons, Carriages, etc.	22,108		.34	
Wine, Liquors and Beer	26,164		.41	
Household Goods, Furniture, Plaster	43,527		.68	
Plaster	34,517		.54	
Other Manufactures	307,970		4.78	
PRODUCTS OF FOREST:—		1,822,559		28.30
Lumber	750,364		11.65	
Staves, Heading and Hoops	106,063		1.65	
Shingles and Lath	112,209		1.74	
Other Forest Products	826,605		12.84	
Charcoal	27,318		.42	
PRODUCTS OF MINES:—		1,549,174		24.06
Anthracite and Bituminous Coal	1,240,224		19.26	
Stone, Gravel and Sand	243,037		3.78	
Salt	65,913		1.02	
Total		6,439,247		100%

I.

COMPARATIVE DETAILED STATEMENT OF OPERATING EXPENSES
FOR THE YEARS 1901 AND 1902.

	1901.	1900.	INCREASE.	DECREASE.
GENERAL EXPENSES.				
Salaries of General Officers	\$34,018 26	\$38,784 30		\$4,766 04
Salaries of Clerks and Attendants . .	70,453 33	71,394 40	\$5,068 87	
General Office Expenses and Supplies	10,241 00	9,326 80	1,614 26	
Insurance	14,228 51	13,258 53	969 98	
Law Expenses	24,354 83	33,374 69		9,019 86
Stationery and Printing (Gen. Offices)	11,283 28	10,839 57	543 69	
Other General Expenses	6,699 86	6,635 95	73 91	
Total	\$109,289 13	\$109,904 33		\$615 20
MAINTENANCE OF WAY AND STRUCTURES.				
Repairs of Roadway	\$384,718 18	\$770,669 73	\$105,048 45	
Renewals of Rails	73,755 38	69,334 09	4,421 29	
Renewals of Ties	337,802 80	253,117 98	84,684 84	
Repairs and Renewals of Bridges and Culverts	90,976 34	100,475 31		\$9,498 97
Repairs and Renewals of Fences, etc.	48,668 70	35,590 15	13,378 55	
Repairs and Renewals of Buildings and Fixtures	119,969 07	90,384 63	29,584 44	
Repairs and Renewals of Docks and Wharves	7,344 26	7,863 10		518 84
Repairs and Renewals of Telegraph	10,121 28	11,607 67	4,633 64	
Stationery & Printing (Way & Struct.)	3,418 83	1,830 12	1,588 71	
Other Way and Structure Expenses	4,371 00	10,318 50		5,947 50
Total	\$1,580,990 52	\$1,360,227 34	\$226,769 18	
MAINTENANCE OF EQUIPMENT.				
Superintendence of Equipment . . .	\$21,355 13	\$21,760 34	\$194 79	
Repairs and Renewals of Locomotives	434,292 05	382,462 91	44,827 14	
" " " Passenger Cars . . .	180,441 44	180,030 11	411 33	
" " " Freight Cars . . .	312,188 22	303,336 55		\$7,145 33
" " " Work Cars . . .	80,402 33	14,496 04	11,906 29	
" " " Shop Machinery and Tools	25,664 40	27,340 68	3,114 70	
Stationery and Printing (Equipment)	3,303 43	3,067 02	240 51	
Other Equipment Expenses	22,145 85	22,421 76	124 00	
Total	\$1,038,192 85	\$1,048,127 31		\$9,999 46

I.

COMPARATIVE DETAILED STATEMENT OF OPERATING EXPENSES
FOR THE YEARS 1901 AND 1900.— *Continued.*

	1901.	1900.	INCREASE.	DECREASE.
CONDUCTING TRANSPORTATION.				
Superintendence (Transportation) . . .	\$99,732 02	\$90,895 23	\$8,836 79	
Engine and Roundhouse Men . . .	602,025 15	511,414 79	90,610 36	
Fuel for Locomotives . . .	652,725 68	555,659 22	97,066 46	
Water Supply for Locomotives . . .	318,073 50	31,417 42	7,556 06	
Oil, Tallow and Waste for Locomotives, . .	30,502 29	20,675 47	9,826 82	
Other Supplies for Locomotives . . .	15,985 70	9,095 56	6,890 14	
Train Service . . .	466,533 92	387,481 21	79,052 71	
Train Supplies and Expenses . . .	105,794 08	74,954 63	30,839 45	
Switchmen, Flagmen and Watchmen . . .	241,401 42	204,636 89	36,764 53	
Telegraph Expenses . . .	91,664 52	79,374 50	12,290 02	
Station Service . . .	553,239 40	508,641 99	44,597 41	
Station Supplies . . .	14,279 03	32,121 53	2,157 50	
Switching Charges . . .	80,163 65	44,765 01	35,398 64	
Car Mileage . . .	90,892 88	92,631 41		\$1,738 53
Hire of Equipment . . .	16,254 09	14,563 27	1,690 82	
Loss and Damage . . .	50,152 18	23,646 87	26,505 31	
Injuries to Persons . . .	51,983 94	23,752 83	28,231 11	
Clearing Wrecks . . .	13,875 72	5,147 81	8,727 91	
Advertising . . .	36,340 18	27,989 18	8,351 00	
Outside Agencies . . .	84,085 57	75,172 39	8,913 18	
Commissions . . .				
Stock Yards and Elevators . . .				
Rents for Tracks, Yards and Terminals, . .	173,917 70	207,075 14		33,157 44
Rents of Buildings and other Property . .	(less) 6,050 84	517 53		6,568 37
Stationery and Printing (Transportation) .	52,032 96	60,603 03		8,570 07
Other Transportation Expenses . . .	4,763 77	2,031 01	2,732 76	
Total . . .	\$3,581,268 51	\$3,084,263 92	\$497,004 59	
Total Rail Expenses . . .	\$6,405,852 01	\$5,695,522 90	\$710,329 11	
LAKE TRANSPORTATION.				
Operating Marine Equipment . . .	422,187 59	373,178 13	49,009 46	
Grand Total Rail and Lake . . .	\$6,828,039 60	\$6,068,701 03	\$759,338 57	

PERE MARQUETTE RAILROAD COMPANY.

J.

GROSS EARNINGS, OPERATING EXPENSES AND NET EARNINGS, BY MONTH.

Earnings.	January.	February.	March.	April.	May.	June.
Freight.	\$464,668.68	396,785.82	455,649.30	542,232.10	507,446.53	453,496.47
Passenger	136,276.76	136,926.45	164,667.18	178,701.16	178,280.38	203,796.45
Express	8,606.32	8,650.00	16,160.82	8,650.00	8,650.00	8,650.00
Mail	17,962.89	17,962.89	18,412.55	17,962.89	17,962.89	18,401.30
Telegraph	625.83	430.37	566.33	553.79	560.50	495.76
Miscellaneous	1,212.35	1,082.61	1,275.59	769.71	777.88	849.61
Marine	34,043.23	33,504.41	38,483.75	49,131.14	45,333.94	46,978.90
Total	\$683,396.06	595,342.55	695,215.52	798,030.79	759,012.12	732,670.61

OPERATING EXPENSES.

General Expenses	\$16,389.71	16,147.09	18,100.70	18,262.50	15,586.02	19,590.79
Maintenance of Way & Structures	89,830.01	82,779.54	98,419.62	128,186.62	138,557.95	150,683.35
Maintenance of Equipm't,	95,725.81	80,694.64	89,248.36	79,867.94	80,740.53	66,860.55
Conducting Transportat'n,	289,073.31	273,922.83	291,073.94	275,917.36	279,050.84	269,692.73
Marine	32,994.23	27,570.74	35,043.32	33,526.80	34,979.02	30,421.81
Total	\$524,013.06	481,114.84	531,885.94	535,761.22	548,914.36	537,149.30
Taxes	21,905.98	17,516.50	20,251.55	25,639.04	22,397.35	20,109.50
Total Oper. Exp. & Taxes,	\$545,919.04	498,631.34	552,137.49	561,400.26	571,311.71	557,258.80
Net Earnings	\$137,477.02	96,711.21	143,078.03	236,630.53	187,700.41	175,311.81

PERE MARQUETTE RAILROAD COMPANY.

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J.

FOR THE YEAR ENDING DECEMBER 31, 1901.

July.	August.	September.	October.	November.	December.	Total.	Per cent. of Earnings.
417,663.65	489,175.93	490,946.21	559,057.26	500,664.48	475,746.93	5,753,533.36	62.53
279,077.27	321,747.35	253,496.98	214,541.58	189,985.46	216,636.47	2,494,135.69	27.11
8,650.00	8,650.00	8,650.00	8,650.00	26,679.72	8,650.00	139,296.86	1.41
17,967.05	17,982.61	18,440.69	17,958.49	18,211.94	18,379.76	217,605.85	2.36
553.35	613.01	786.03	795.99	725.54	553.89	7,290.39	.08
1,045.42	913.81	701.32	774.50	937.68	1,005.44	11,345.94	.12
51,358.22	65,152.16	61,712.47	55,253.22	53,862.28	53,153.39	587,967.11	6.39
776,314.96	904,234.87	834,733.70	857,031.04	791,067.10	774,125.88	9,201,175.20	100.00

16,790.42	13,693.68	16,865.25	14,627.21	16,176.80	17,158.96	199,389.13	2.17
131,557.37	169,257.61	151,886.74	167,690.80	159,250.08	118,896.83	1,586,996.52	17.25
84,974.49	94,990.42	84,068.44	83,733.49	93,509.78	103,783.40	1,038,197.85	11.28
296,569.64	313,415.65	293,077.75	335,590.08	334,489.59	329,394.79	3,581,268.51	38.92
34,314.97	35,310.02	40,607.60	35,045.28	39,063.07	43,310.67	422,187.59	4.59
564,206.89	626,667.38	586,505.78	636,686.86	642,489.32	612,544.65	6,828,039.60	74.21
26,280.12	27,628.70	24,382.08	25,453.80	18,942.92	31,664.88	282,172.42	3.06
590,487.01	654,296.08	610,887.86	662,140.66	661,432.24	644,209.53	7,110,212.02	77.27
185,827.95	249,938.79	223,845.84	194,890.38	129,634.86	129,916.35	2,090,963.18	22.73

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K.**FREIGHT STATISTICS.**

	1901.	1900.
Freight earnings	\$5,753,533.36	\$5,126,550.79
Miles run, freight trains	3,562,343	3,211,422
Miles run by loaded freight cars	53,970,279	46,303,850
Miles run by empty freight cars	18,603,564	16,153,339
Number of tons of revenue freight carried	6,439,247	5,675,599
Number of tons of revenue freight carried one mile	791,039,936	639,329,323
Number of tons of revenue freight per train mile	222.06	207.00
Number of tons of revenue freight per loaded car	14.66	13.87
Number of tons of revenue freight per mile of road	3.501	3.116
Average number loaded freight cars per train,	15.15	14.99
Average number empty freight cars per train,	5.22	5.23
Average number loaded and empty freight cars per train	20.37	20.22
Average miles each ton of revenue freight was carried	122.84	112.64
Average amount received per ton of revenue freight	\$0.8935	\$0.9033
Average revenue from freight per train mile,	\$1.615	\$1.59
Average revenue per ton of revenue freight per mile	\$0.00727	\$0.00802
Average revenue from freight per mile of road,	\$3,128.28	\$2,814.79

PASSENGER STATISTICS.

Passenger earnings	\$2,494,135.69	\$2,347,104.81
Miles run, passenger trains	3,217,524	2,956,718
Number of passengers carried	3,382,443	2,853,495
Number of passengers carried one mile	123,739,849	105,760,378
Average miles each passenger was carried	36.58 miles	37.06 miles
Average revenue received from each passenger	\$0.7373	\$0.8225
Average revenue from passengers per train mile	\$0.7751	\$0.7937
Average revenue per passenger per mile	\$0.0201	\$0.0218
Average revenue from passengers per mile of road	\$1,356.09	\$1,288.70

NOTE. — Tonnage of Company freight carried free not included in the above.

K.

MARINE STATISTICS.

	1901.	1900.
Freight:		
Earnings from freight	\$503,839.94	\$413,638.08
Number tons revenue freight carried	1,022,419	897,728
Average amount received from each ton,	\$0.49279	\$0.51224
Passenger:		
Earnings from passengers	\$79,800.93	\$66,993.49
Number of passengers carried	39,642	30,316
Average amount received from each passenger	\$2.01	\$2.21
Express:		
Earnings from express	\$1,206.24	\$1,200.00
Mail:		
Earnings from mail	\$3,120.00	\$3,165.00

MISCELLANEOUS STATISTICS.

Total miles run by revenue trains	6,779,867	6,168,140
Maintenance of equipment per revenue train mile	\$0.1531	\$0.1699
Station service per revenue train mile	\$0.0816	\$0.0825
Train service per revenue train mile	\$0.0688	\$0.0628
Engine and roundhouse men per revenue train mile	\$0.0888	\$0.0829
Train and station supplies per revenue train mile	\$0.0207	\$0.0174
Fuel for locomotives per revenue train mile	\$0.0963	\$0.0901
Oil, tallow and waste for locomotives per revenue train mile	\$0.0045	\$0.0033
All other expenses per revenue train mile, including taxes	\$0.5349	\$0.5174
Total operating expenses per revenue train mile, including taxes	\$1.0487	\$1.0263
Total operating expenses per revenue train mile, excluding taxes	\$1.0071	\$0.9839
Percentage of expenses to earnings, including taxes	77.27	76.31
Percentage of expenses to earnings, excluding taxes	74.21	73.15

PERE MARQUETTE RAILROAD COMPANY.

L.

MILEAGE.

December 31, 1901.

Divisions, including Branches thereon:

			Main Line.	Business Producing Branches.	Sidings.
Toledo	Division, between	Alexis and Saginaw	172.53	1.71	117.09
• Bay City	"	" Saginaw and Bay City	25.66		18.39
Ludington	"	" Saginaw and Ludington	190.49	17.55	67.54
Manistee	"	" Merritt and Manistee	27.06	4.40	7.15
Port Huron	"	" Saginaw and Port Huron	124.39		22.57
Port Austin	"	" Port Huron and Grindstone City,	110.63		15.67
Petoskey	"	" Grand Rapids and Bay View	248.13	17.49	64.62
Big Rapids	"	" Berry and Big Rapids	52.04		5.04
Muskegon	"	" Allegan and Pentwater	127.70	3.43	45.70
Detroit	"	" Plymouth and Oak	29.26		9.65
Grand Rapids	"	" Plymouth and Grand Rapids	132.94	4.24	42.70
Saginaw	"	" Elmdale and Paines	102.58		23.16
Ionia	"	" Grand Ledge and Big Rapids	165.78	2.58	30.06
La Crosse	"	" La Crosse and New Buffalo	37.61		6.48
Chicago	"	" New Buffalo and Grand Rapids,	114.94		51.19
Total mileage owned by this Company			1,661.74	51.40	527.11

Leased Lines:

Saginaw, Tuscola & Huron R. R.	between Saginaw and Bad Axe	65.79		19.43
Gr. Rap., Kalkaska & S. E. R. R.	" Rapid City and Stratford	32.90	6.62	6.84
Michigan Cen. R. R.,	" Lansing and North Lansing	1.04		
	" Mershon and Paines	6.70		
Ann Arbor R. R. . . .	" Toledo and Alexis	6.63		
D. U. R. R., D., & S. Co.	" Delray and 18th St., Detroit	3.34		3.44
Fort Street Union Depot Co.	" 18th St. and Third St., Detroit	1.36		
12th St Yds., Detroit,				
Detroit & Mackinac R. R. Bridge, Bay City, P. M. owns one half,		0.26		5.51
Business producing branches		58.02		
Total miles operated			1,837.68	58.02
				562.33

* Includes 6.25 miles leased.

PERE MARQUETTE RAILROAD COMPANY.

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M.**EQUIPMENT.**

DECEMBER 31, 1901.

LOCOMOTIVES:—

8 wheel	116	
10 wheel	22	
Moguls	42	
Consolidated	21	
Chautauqua	5	
Switch	39	
Narrow Gauge	4	
Special	1	250
		<hr/>

FREIGHT CARS:—

Refrigerator	111	
Box	4,683	
Furniture	390	
Stock	91	
Charcoal	105	
Flat	2,606	
Coal	916	
Miscellaneous	132	
Cabin Cars	113	9,147
		<hr/>

245

8.90

PASSENGER CARS:—

Official Cars	4	
Sleepers	2	
Parlor	15	
First-Class Coaches	88	
Smokers	59	
Baggage and Smoker	29	
Baggage, Mail and Smoker	4	
Mail	2	
Baggage, Mail and Express	28	
Baggage	24	
Baggage and Express	5	
Buffet Parlor	1	
Parlor Observation	2	
Café Coach	2	265
		<hr/>

NARROW GAUGE CAR EQUIPMENT:—

Box	78	
Refrigerator	3	
Stock	14	
Coal	8	
Flat (leased)	12	
Flats	15	
Snow Plow	1	
Caboose	1	
Tool Car	1	133
		<hr/>
Passenger Coaches	5	
Baggage, Mail and Smoker	1	
Baggage, Mail and Express	1	7
		<hr/>

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PERE MARQUETTE RAILROAD COMPANY.

BOSTON, December 31, 1901.

WILLIAM W. CRAPO, } TRUSTEES UNDER MARQUETTE EQUIPMENT CO.
 OLIVER W. MINK, } LIMITED, MORTGAGE, DATED AUGUST 24, 1900.
 CHARLES MERRIAM, }

In account with

PERE MARQUETTE RAILROAD COMPANY.

Received from Pere Marquette Railroad Co., from September, 1900, to December, 1901, both inclusive, on account of payments to the Sinking Fund as provided for in the Mortgage	\$120,233.32
Received interest on deposits to December 31, 1901	726.16
Total	<u>\$120,959.48</u>
Less paid for 74 Marquette Equipment Co., Limited, 1st Mortgage 5% bonds, \$1,000 each, with coupons, of and from April 1, 1902, attached, at par, flat, for Sinking Fund	74,000.00
Balance cash on hand December 31, 1901	<u><u>\$46,959.48</u></u>

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PERE MARQUETTE RAILROAD COMPANY.

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LAND DEPARTMENT.

DETROIT, MICH., January 1, 1902.

TO CHARLES MERRIAM, *Treasurer*.

Herewith I submit statement of the business of the Land Department during the year 1901:—

There has been sold by the Land Commissioner 2,842⁸¹/₁₀₀ acres at an average price of \$5.81 per acre, amounting to . . . \$16,506 62

The receipts during 1901 from land sales and land contracts were as follows:—

Principal	\$50,725 87
Interest on Contracts	6,190 39
	<u>\$56,916 26</u>
Interest received on Deposits	573 24
	<u><u>\$57,489 50</u></u>

Payments have been made for Taxes and

Sundry Expenses	\$5,595 01
Expenses of Land Commissioner's Office	1,000 00
Trustee and Clerical Services	375 00
	<u>\$6,970 01</u>
Balance paid to Charles Merriam, Treasurer	50,519 49
	<u><u>\$57,489 50</u></u>

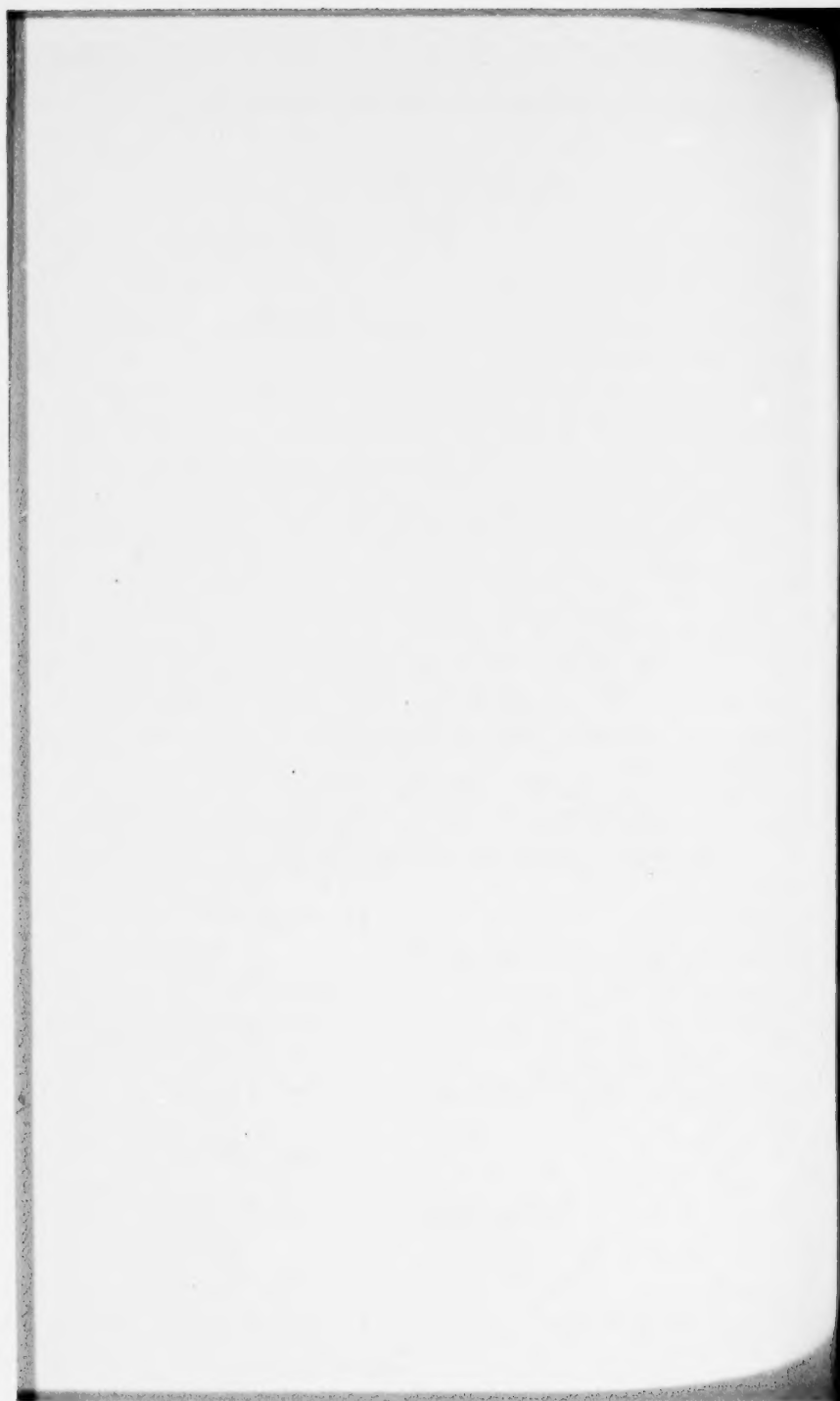
Bills Receivable on hand December 31, 1901:—

Principal	\$38,488 65
Interest	6,065 08
	<u><u>\$44,553 73</u></u>

There remain unsold at this date 33,872⁹⁵/₁₀₀ acres.

WM. W. CRAPO,

Trustee.



Ex 3 June 8. 1904

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THIRD ANNUAL REPORT

OF THE

PERE MARQUETTE RAILROAD COMPANY,

FOR THE FISCAL YEAR ENDING

DECEMBER 31, 1902.

T. W. RIPLEY CO., THE SOUTHGATE PRESS.
BOSTON, U. S. A.

1903.
1108.



PERE MARQUETTE RAILROAD COMPANY.

DIRECTORS.

FREDERICK H. PRINCE	BOSTON.
THOMAS F. RYAN	NEW YORK.
WILLIAM K. BIXBY	ST. LOUIS.
THOMAS H. WEST	ST. LOUIS.
SAMUEL R. SHIPLEY	PHILADELPHIA.
MYRON J. CARPENTER	DETROIT.
NATHANIEL THAYER	BOSTON.
MARK T. COX	NEW YORK.
CHARLES MERRIAM	BOSTON.
WALTER HUNNEWELL	BOSTON.
NEWMAN ERB	NEW YORK.

EXECUTIVE COMMITTEE.

NEWMAN ERB,	NATHANIEL THAYER,
MARK T. COX,	THOMAS F. RYAN,
FREDERICK H. PRINCE.	

OFFICERS.

FREDERICK H. PRINCE	PRESIDENT.
MARK T. COX	VICE-PRESIDENT.
NEWMAN ERB	VICE-PRESIDENT.
MYRON J. CARPENTER	VICE-PRESIDENT AND GENERAL MANAGER.
CHARLES MERRIAM	SECRETARY AND TREASURER.
ARTHUR M. SMITH	GENERAL SUPERINTENDENT.
FREDERICK W. STEVENS	GENERAL COUNSEL.
STOREY, THORNDIKE, {	GENERAL SOLICITORS.
PALMER & THAYER }	
ARTHUR PATRIARCHE	GENERAL TRAFFIC MANAGER.
JAMES E. HOWARD	AUDITOR.

GENERAL OFFICES.

66 BROADWAY, NEW YORK, N. Y.
FORT STREET UNION DEPOT, DETROIT, MICH.

STOCK TRANSFER OFFICES.

30 STATE STREET, BOSTON, MASS. 40 WALL STREET, NEW YORK, N. Y.

ANNUAL MEETING.

First Wednesday in May, at Detroit, Mich.



THIRD ANNUAL REPORT.

Boston, April 17, 1903.

To the Stockholders of the

Pere Marquette Railroad Company:—

In presenting the statement of the operations of the Company for the year 1902, I take occasion to point out that the

Net earnings from operations were . . . \$993,136.79

An increase over the preceding year of . . . 258,562.35

notwithstanding an increase in taxes of \$107,492.91, and a charge against operating expenses for cost of actual betterments and certain equipment, amounting to \$114,641.08, covering items which are properly chargeable to property account.

The new work begun in 1901, now almost completed, was intended to so improve the physical condition of your property that the cost of operation might be considerably reduced. This expectation is now being realized, and will be further reflected in the results of operation in 1903.

While the taxes for the year were larger, and the cost of fuel during the months of November and December very materially increased, and wages in certain departments raised, there was an increase of only \$292,828.79 in operating expenses against an increase of \$754,199.87 in gross revenue.

The addition of fifty-two modern heavy engines to the Company's equipment during the past two years has resulted in a substantial increase of the train tonnage and a corresponding reduction in the cost per train mile, fully justifying the expectation that further economies will result when the additional motive power, already ordered, shall have been received.

The rapid development and the industrial progress in the territory served by your Company is almost phenomenal. These appear to be of a character giving indication of permanency and substantiality.

The Company has been unable to meet the demands of patrons for cars, the local shortage being at times more than six thousand cars in a single day. While it is true that a car shortage was and is more or less general, this condition on your road was more acute and the requirements greater in proportion to the total of the actual equipment owned.

In December, the Company entered into a contract for the purchase of the Lake Erie and Detroit River Railway Company

for \$2,870,000, issuing in payment therefor its Collateral Trust Twenty-Year Bonds, bearing interest at the rate of 3 per cent. for the first three years, and 4 per cent. thereafter. The road extends from Port Huron and Windsor to St. Thomas, with branches to Port Stanley and Rond Eau, on Lake Erie, and to London, all in the Province of Ontario, and having a total of 230 miles. From St. Thomas to Buffalo, the traffic of the Company will be carried under an agreement with one of the existing lines. The net earnings from the local business of the road are more than sufficient to pay the interest on the above bonds, and the acquisition being self-sustaining involves no burden upon your property.

The purchase was taken over January 1, 1903. The object of acquiring the properties is to increase the length of haul on business which the Pere Marquette creates and controls. Your Company is a large originator of freight, which in the past it has been turning over to its connections, obtaining therefrom only the short haul. The result has been a profit on its freight business inconsistent with its position. By carrying this business over our own lines, lengthening the haul, the earnings will thereby be largely increased, and at the same time our property will be strengthened.

A contract has been entered into, to be effective in April, 1903, with the Bessemer and Lake Erie Railroad Company, owned by United States Steel Corporation, for the joint purchase of the docks and car ferry of the United States and Ontario Steam Navigation Company and with a contract for the interchange of traffic across the lakes, between the railroad company named and your company, for a period of ninety-nine years. To the property thus jointly acquired will be added a new steam collier, and the tonnage interchange already contracted for should give a large and profitable revenue to your Company.

The business across Lake Michigan gives every evidence of continued steady development and appears to be limited only by our marine capacity for handling it.

The opening of the through lines created, as well as the increasing local requirements, necessitates a larger addition to the Company's equipment and marine, for which provision has been in part already made.

F. H. PRINCE,

President.

THIRD ANNUAL REPORT.



DETROIT, MICH., March 31, 1903.

*To the Board of Directors of the
Pere Marquette Railroad Company:—*

Herewith is presented the statement of the operations of the Company for the year ending December 31, 1903.

MILEAGE.

The mileage of railroads owned and operated is as follows:—

Miles of road owned	1,742.81	Increase, 87.32
" " " leased	32.90	Decrease, 72.04
	<u>1,775.71</u>	Increase, 15.28
Trackage rights over lines owned by other Companies	18.97	
Owned jointly with other Companies . . . . .	.26	
Total mileage operated	<u>1,794.94</u>	Increase, 15.28

The increase in mileage owned is on account of the construction of Allegan Extension, 1.84 miles, certain changes at Ludington and Plymouth, and changes caused by re-classification.

EARNINGS AND EXPENSES.

Gross	\$9,955,375.07
Operating Expenses including Taxes	<u>7,510,533.72</u>
Net	\$2,444,841.35
Interest on Bonds	<u>1,451,704.56</u>
Surplus	<u>\$993,136.79</u>

**COMPARATIVE STATEMENT, EARNINGS AND EXPENSES,
YEARS 1902 AND 1901.**

	1902.	1901.	INCREASE.
Gross Earnings	\$9,955,375 07	\$9,201,175 20	\$754,199 87
Operating Expenses	7,120,868 39	6,828,039 60	292,828 79
Net Earnings	\$2,834,506 68	\$2,373,135 60	\$461,371 08
Taxes	389,665 33	282,172 42	107,492 91
Net Earnings	\$2,444,841 35	\$2,090,963 18	\$353,878 17
Interest Charges	1,451,704 56	1,356,388 74	95,315 82
	\$993,136 79	\$734,574 44	\$258,562 35

Percentage of Expenses to Earnings (exclusive of Taxes)	1902. 71.53	1901. 74.21	Decrease. 2.68
Percentage of Expenses to Earnings (including Taxes)	75.44	77.27	1.83

EARNINGS AND EXPENSES.

The gross earnings for the year 1902 aggregate \$9,955,375.07, an increase of \$754,199.87 over the year 1901, equal to 8.19%, and the expenses, exclusive of taxes, increased \$292,828.79, or 4.29%, showing an increase in net earnings from operations of \$461,371.08, or 19.44%.

EXPENSES.

MAINTENANCE OF WAY AND STRUCTURES.

The amount expended for maintenance of way and structures was \$1,480,422.42, a decrease of \$106,574.10 or 6.72% from 1901.

A summary of the work done is shown herewith :

PERE MARQUETTE RAILROAD COMPANY.

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NEW RAIL.

	Miles Track.
New rail on hand January 1, 1902	28.358
Received during the year 1902	27.568
Total	55.926

Disposed of as follows:—

	Miles Track.
Laid on Detroit and Grand Rapids Division	11.286
“ “ Toledo Division	17.532
“ “ Ludington “	21.378
“ “ Saginaw “ . . . . .	.408
“ “ Petosky “ . . . . .	.379
“ “ Bay City “ . . . . .	.779
On hand December 31, 1902	4.164
Total	55.926

RELAYING RAIL.

	Miles Track.
Relaying rail on hand January 1, 1902	38.300
Released by laying of new 75-lb. steel	51.760
Side tracks taken up	23.500
Total	113.560

Disposed of as follows:—

Laid in new sidings	52.110	
“ “ main track	2.270	54.380
Sold to Sanilac Center R. R.		6.890
Scrapped and sold		15.350
On hand Dec. 31, 1902: Relay rail,	33.380	
Scrap	3.560	36.940
Total		113.560

TRACKS.

176.36 miles of tracks were improved by reballasting; 2.27 miles relaying rail were used in additions to the main track, including the Allegan Extension, and minor changes on Ludington and

1116

Detroit Divisions; 52.11 miles of new sidings and business producing tracks were laid with relaying rail and 23.50 miles of sidings and business producing tracks were taken up, making a net increase of 28.66 miles of these tracks. 722,847 new cross-ties were put in the tracks.

The grade changes at Plymouth, Northville-*Novi*, Grand Blanc, and *Evart-Sears*, under way at close of last year, were completed, and the changes in grade at *Flint*, *Horton* and *Canton* were opened and completed during this year. The *Allegan Extension* was also completed and put in service during the year.

New interlocking devices were erected at *Grand Junction*, *Hoyt*, *Vassar*, and *Otter Lake*, and heavy repairs put on interlockers at *Delray*, *Washington Avenue*, *Saginaw* and *Grand Rapids*.

BUILDINGS.

New water tanks were constructed at *Manistee*, *Saginaw*, *New Richmond* and *Sharon*, and substructures for tank at *Ionia*, and a new coaling station at *Grand Ledge*. New engine house was constructed at *Manistee*, in place of one destroyed by fire, and the engine houses at *Bay City* and *Plymouth*, and the roundhouse at *Saginaw*, commenced in 1901, were completed.

Passenger and freight stations were erected at *Blaine*, *Allegan*, *Mears* and *Breckenridge*, and the new passenger station at *Bay City* was commenced and is now in process of completion.

BRIDGES.

New bridges were built during the year, as follows: One on the *Bay City Division* north of *Crow Island*, and four on the *Allegan Extension*.

The following bridges have been rebuilt as permanent structures: *Riverside*, *Milford*, *Newaygo*, *Evart*, *Salem*, *Eagle*, *Wadsworth Street*, culvert at *Saginaw*. A plate girder draw span at *Benton Harbor* was substituted for a pile trestle bridge. Thirty-four new culverts were constructed using cast-iron pipe, and sixteen using vitrified pipe.

MAINTENANCE OF EQUIPMENT.

The cost of maintenance of equipment amounted to \$1,040,473.87, an increase of \$2,276.02 as compared with the year 1901.

LOCOMOTIVES.

Nineteen new locomotives were purchased during the year. One switch engine was sold and two light eight-wheel engines scrapped, making a net increase to the locomotive equipment of sixteen engines, showing a total of 266 engines December 31, 1902, as against 250 December 31, 1901.

PASSENGER CARS.

There were thirteen new passenger cars purchased during the year, including one officers' car, two parlor observation cars, two café coaches, six first-class coaches, two combination cars and one combination car built at the Company's shops, making a total addition of fourteen. One combination car was changed to a caboose car, which made a net increase to passenger car equipment of thirteen cars, showing 285 cars on December 31, as against 272 at the close of the previous year.

FREIGHT EQUIPMENT.

There were 731 freight cars and 27 caboose cars added to the freight equipment during the year.

CONDUCTING TRANSPORTATION.

The cost of conducting transportation was \$3,906,673.40, an increase over 1901 of \$325,404.89 or 9.09%. This increase is caused by increased cost of material and labor and the increase in tonnage. The increase in cost of fuel for locomotives alone was \$145,615.36 or 22.31%. The increase in freight train mileage was 216,965 miles or 6.09%, and the revenue tons per mile was increased 115,023,848 tons or 14.54%. The increase in passengers carried one mile is 6,309,535 or 5.1%, and the increase in passenger train miles is 84,548 or 2.63%.

MARINE EQUIPMENT.

The marine equipment consists of three steel car ferries Nos. 15, 17 and 18, of thirty cars capacity each, one wooden car ferry No. 16, of twenty-six cars capacity and four combination break bulk and passenger boats, Nos. 2, 3, 4 and 5.

On January 17, 1902, break bulk boat No. 3 struck a sand bar near Ludington, disabling her for about four months.

The cost of repairs was covered by insurance.

The following items, showing a total of expenses of \$114,614.08 on account of betterments, were charged to operating expenses:—

New sidings	\$63,819.04
Steam shovel	4,875.00
Iron pipe for renewal of timber culverts,	5,350.35
Evart depot buildings	2,383.27
Removal of East Paris station	1,150.00
New telegraph line, New Buffalo—	
Grand Rapids	2,506.97
Rogers ballast cars	15,120.00
Stickley Bros. cars	2,160.00
Applying wide vestibules to 8 passenger cars	10,609.78
P. M. Transportation Co. Bonds.—	
Steamer No. 15	6,666.67
Total	<u>\$114,641.08</u>

CONSTRUCTION AND EQUIPMENT ACCOUNT.

The sum of \$2,238,622.27 was added to this account for the year, full detail of which appears in table E of this report.

GENERAL IMPROVEMENT ACCOUNT.

There was charged to this account during the year the sum of \$141,480.62, including the cost of three new switch engines. For details of this account see table F of this report.

INVESTMENT ACCOUNT.

There is an addition to this account of \$17,202.27, on account of the purchase of golf grounds at Ottawa Beach and improvements to the hotel at that point.

BONDED DEBT.

The bonded debt was increased by the sale of the 4% consolidated gold bonds of this Company amounting to \$2,105,000, the proceeds being used to purchase new equipment and to pay for the various other items which go to make up the additions to construction and equipment in 1902.

The bonded debt was reduced by payment of the balance of the bonds of the Michigan Equipment Company, which were not provided for by the sinking fund, amounting to \$143,000. These bonds matured June 1, 1902, and were paid at that date.

For further information in regard to the financial affairs of the Company, you are respectfully referred to the Auditor's statements accompanying this report.

M. J. CARPENTER,

Vice-President and General Manager.

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AUDITOR'S REPORT.

Mr. M. J. CARPENTER,
Vice-President and General Manager,
 Detroit, Mich.

Dear Sir, — I herewith submit the accounts and statements of
 the Pere Marquette Railroad Company for the year ending December
 31, 1902: —

- A. Condensed General Balance Sheet.
- B. Income Account.
- C. Profit and Loss Account.
- D. Bonded Debt.
- E. Construction Account.
- F. General Improvement Fund.
- G. Additions to Investment Account.
- H. Comparative Statement, Earnings and Expenses.
- I. Classification of Freight Tonnage.
- J. Comparative Statement of Operating Expenses.
- K. Gross Earnings, Operating Expenses and Net Earnings
 by Months.
- L. Freight, Passenger, Marine and Miscellaneous Statistics.
- M. Mileage Statement.
- N. Equipment.
- O. Report of Trustees, Marquette Equipment Company.
- P. Report of Land Grant Trustee.

J. E. HOWARD,

Auditor.

A.
CONDENSED GENERAL BALANCE SHEET, DECEMBER 31, 1902.

PROPERTY ACCOUNTS.		CAPITAL ACCOUNTS.	
Cost of Road, Construction and Equip't	\$57,061,567 67	Common Stock	\$16,000,000 00
Equipment: Equipment Companies	890,000 00	Preferred Stock	12,000,000 00
Investments	1,421,027 43	Funded Debt	31,173,337 43
AVAILABLE ASSETS.		CURRENT LIABILITIES.	
Cash and Bills Receivable	780,470 82	Accrued Bond Interest	364,555 16
Material on hand	550,023 85	Unpaid Coupons	51,512 45
Open Accounts	755,113 93	Unpaid Vouchers and Pay Rolls	1,028,231 64
Trustees, Equipment Companies	44,659 48	Unpaid Taxes	355,703 53
D., G. R. & W. R. R. Preferred Stock Scrip	271 60	Unpaid Dividends (inc. Feb. 16, 1903)	213,158 00
	\$61,503,134 78	Sinking Funds, Equipment Bonds	44,659 48
		Bills Payable	58,500 00
		Income Account	213,477 09
			\$61,503,134 78

B.
INCOME ACCOUNT FOR THE FISCAL YEAR ENDING DECEMBER 31, 1902.

Operating Expenses	\$7,120,868 39	Gross Earnings	\$9,955,375 07
Interest Charges	1,451,704 56		
Taxes	389,665 33		
	\$8,962,238 28		
Balance, being net income for year ending			
December 31, 1902, carried to Profit and			
Loss Account	993,136 79		
	\$9,955,375 07		

C.

PROFIT AND LOSS ACCOUNT.

Dividend No. 4, August 15, 1902 . . .	\$210,206 00	Balance brought forward	\$993,136 79
Dividend No. 5, February 16, 1903 . . .	210,210 00		
Payments on account of Equipment Notes .	159,243 70		
Transferred to Improvement Fund . . .	200,000 00		
Carried to General Balance Sheet . . .	213,477 09		
	<u>\$993,136 79</u>		<u>\$993,136 79</u>

D.
BONDED DEBT, DECEMBER 31, 1941.

Date	When Due	Description	Amount	Rate	Annual Interest
Jan'y 1, 1901	Jan'y 1, 1901	Pere Marquette Railroad Co. Consolidated Mortgage Gold Bonds Authorized issue \$1,000,000. First mortgage upon all the age and property of the Pere Marquette R. R. Co. subject to the following bonds issued by the Constituent Companies.	\$1,000,000 00	4%	\$40,000 00
Oct. 1, 1900	Oct. 1, 1900	Flint & Pere Marquette Railroad Co. Authorized issue, \$1,000,000. First mortgage upon 77.90 miles, Monroe to Ludington, Flint River Branch and Saginaw & Bay City Branch.	4,000,000 00	6%	240,000 00
Oct. 1, 1900	Oct. 1, 1900	Flint & Pere Marquette Railroad Co. (Redeemed). Same as next above described, except that interest is reduced to 4%.	1,000,000 00	4%	40,000 00
May 1, 1900	May 1, 1900	Flint & Pere Marquette Railroad Co. (Consolidated). Authorized issue, \$1,500,000. First mortgage on 116.70 miles of track, and second mortgage upon 116.70 miles covered by P. & M. First Mortgage notes above.	2,500,000 00	5%	125,000 00
April 1, 1900	April 1, 1900	Flint & Pere Marquette Railroad Co. (P. & M. Div.). Authorized issue, \$1,500,000. First mortgage on Port Huron Division, 235.02 miles.	3,500,000 00	5%	175,000 00
July 1, 1900	July 1, 1900	Flint & Pere Marquette Railroad Co. (Toledo Div.). Authorized issue, \$1,000,000. First mortgage on Toledo Division, 14.20 miles; also cover lease for trackage and terminals with Ann Arbor R. R. at Toledo, Ohio.	400,000 00	5%	20,000 00
Oct. 1, 1897	Annually	Pere Marquette Transportation Co. Original issue, \$100,000. First mortgage on Car Ferry No 15.	100,000 00	6%	6,000 00
Dec. 1, 1891	Dec. 1, 1901	Chicago & West Michigan Ry. Co. Authorized issue, \$1,500,000. First mortgage on the mileage formerly owned by the C. & W. M. Ry., 480.13 miles, except as stated next below.	5,750,000 00	5%	287,500 00
June 1, 1895	June 1, 1905	Grand Rapids, Newaygo & Lake Shore Railroad Co. First mortgage on ten miles Newaygo to White Cloud.	19,000 00	7%	1,330 00
May 1, 1901	May 1, 1901	Chicago & North Michigan Railroad Co. Authorized issue, \$1,000,000. First mortgage on line Boardman Jct. to Bay View. 79.00 miles. — 9.21 — Williamsburg to Elk Rapids — 10.31 —	1,600,000 00	5%	\$83,300 00
April 1, 1900	April 1, 1900	Detroit, Grand Rapids & Western Railroad Co. Authorized issue, \$5,000,000. First mortgage on line formerly owned by the D. & G. R. R. 379.73 miles.	\$5,379,160 43	4%	215,164 50
Aug. 1, 1900	Aug. 1, 1900	Grand Rapids & Western Railroad Co. Authorized issue, \$1,000,000. First mortgage on S. & H. R. R. 47.79 miles.	1,000,000 00	4%	40,000 00
Mar. 1, 1900	Mar. 1, 1900	Grand Rapids, Building & Equipment Railroad Co. Authorized issue, \$1,000,000. First mortgage on line of G. R. & S. R. R. 21 miles.	1,000,000 00	5%	50,000 00
April 1, 1900	April 1, 1900	The Western Equipment Co., Ltd. Secured by 100 flat cars and 100 refrigerator cars.	130,000 00	4%	5,200 00
Oct. 1, 1900	Oct. 1, 1900	The Marquette Equipment Co., Ltd. Secured by 900 box cars, 200 coal cars, 10 caboose cars and 17 locomotives. This Chicago & West Michigan Railway Co. Company. Receipts. This Receipt has been all called in and interest on same has ceased.	700,000 00	5%	35,000 00
Various	Various	Various	5,133 33		\$1,413,337 40

E.
CONSTRUCTION ACCOUNT

FOR THE YEAR ENDING DECEMBER 31, 1902.

Jan. 1. To Balance		\$54,829.18	64
Additions during the year:—			
Discount on \$2,105,000.00 P. M. R. R. Co.			
4% bonds sold this year	\$157,875	00	
Expenditures for			
New Equipment	1,028,343	84	
Bonds of Michigan Equipment Co. due and paid	143,000	00	
Wallin Land, Grand Rapids	2,453	80	
St. Louis Cooperage Property, Rapid City	3,114	25	
Gunn Folding Bed Property, Grand Rapids	1,319	71	
Northville-Nowi, Change of Grade	34,459	57	
Flint, " "	26,904	16	
Canton, " "	3,119	03	
Horton, " "	10,216	88	
Reed City, " "	2,085	01	
Farwell, " "	384	26	
Holly, " "	2,369	49	
Grand Blanc, " "	21,894	74	
Ewart-Sears, " "	94,856	31	
Allegan Extension	32,279	93	
Port Huron Ferry Slip	15,012	76	
Old account G. R., K. & S. E. R. R.	2,574	03	
Preliminary Surveys, Howard City-Newaygo	5,167	97	
Detroit Freight House extension, Balance	7,990	26	
New Car Ferry No. 18	394,108	43	
Real Estate for new yards, Grand Rapids	36,326	83	
" " Saginaw	3,350	00	
" " Ludington	50,415	02	
" " Grand Rapids	56,615	72	
Ludington Ferry Slip	8,584	27	
Paving Jefferson Street, Bay City	6,712	20	
Passenger Station, new, Bay City	12,809	87	
Bridge over Grand River, Grand Rapids	42,724	47	
Wealthy Ave. Warehouse, " "	6,388	30	
New roundhouse and turntable, Saginaw	25,166	09	
		2,238,622	27
		\$57,067,802	91

CREDIT.

By Old Accounts C. & W. M. Ry.	\$412	94	
" " D., G. R. & W. R. R.	114	35	
" " F. & P. M. R. R.	2,055	15	
Land sold various points	3,502	50	
Received from Pentwater & Manistee R. R.	150	30	
		6,235	24
		\$57,061,567	67

F.

GENERAL IMPROVEMENT FUND

FOR YEAR ENDING DECEMBER 31, 1902.

1902.

By Balance January 1st	\$172,900 94	
Received from sale of Locomotives	1,650 00	
" " Sundry Credits	36 00	
Net receipts of Land Department for year 1902	21,764 67	
Transferred from Profit and Loss Account for year 1902	200,000 00	\$396,351 61

Expenditures on account of

BRIDGES:

Riverside	\$9,394 50	
Milford, one-half cost	4,486 89	
Kidd	865 79	
Newaygo, one-half cost	*9,670 68	
Paw Paw River, No. 1	4,861 31	
" " No. 2	*1,589 32	
Alma	*3,140 93	
Eagle, one-half cost	210 02	
Graham, " "	333 56	
North Bradley, " "	*1,513 41	
Saginaw, Wadsworth Street Culvert,	*4,120 62	\$40,187 03

BUILDINGS:

Bay City, Engine House	\$1,964 23	
Ludington, Turntable	448 79	
Plymouth, Engine House	1,535 40	
" Yard Office	232 38	
Rapid City, Tank	581 77	
New Buffalo, Turntable	641 38	
Toledo, Transfer Shed, one-half cost	750 18	
Grand Ledge Coal Chute	7,647 10	13,801 23
Ottawa Beach Dock		775 62

YARDS AND SIDE TRACKS:

Luddington	*\$1,868 33	
Flint	844 06	
Plymouth	4,581 53	
Grand Ledge	3,954 33	
Baldwin	259 98	
Grand Rapids	*358 38	11,866 63

PASSING TRACKS:

Kaleva	\$694 45	
Coloma	512 08	
Sunfield	904 05	
Sidney	464 70	
Thompsonville	689 82	
Okemos	428 29	
Woodbury	382 97	
St. Joseph	1,317 69	5,394 05

Carried forward

\$396,351 61

* These items are uncompleted.

PERE MARQUETTE RAILROAD COMPANY.

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F.

<i>Brought forward</i>					\$396,351 61
COMMERCIAL TRACKS:					
Saginaw, Wadsworth Street		\$121	50		
Grand Rapids, Braudy		319	49		
" Thum Co.		618	40		
" Macey Co.		629	67		
Delray, Franklin Salt Co.		3,387	59		
Midland, Dow Chemical Co.		2,778	90		
Alma, Sugar Co.		328	00		
Croswell, "		3,053	58		
Novi, Elevator Track		71	79		
St. Louis, Sugar Co.		*1,642	47		
Clyde, Ice House		394	16		
Flint Imperial Wheel Company		1,059	56		
Sebewaing, Sugar Co.		375	62		
St. Louis, Chemical Co.		*596	47	\$15,477	20
MISCELLANEOUS SIDE TRACKS:					
New Buffalo, Engine House		\$235	06		
Benton Harbor, Storage Track		744	54		
Petosky, "		1,701	07	2,680	67
INTERLOCKERS:					
Otter Lake		\$2,424	17		
Grand Junction		*1,722	97		
Hoyt		*4,208	00		
Vassar		1,364	50	9,719	64
MISCELLANEOUS:					
Elmdale, Sink Hole		\$1,356	14		
Three New Switch Engines		34,129	35		
Re-Survey Saginaw Dist.		*6,093	06	41,578	55
Total					141,480 62
Balance, December 31, 1902					\$254,870 99

* These items are uncompleted.

G.

INVESTMENT ACCOUNT.

ADDITIONS DURING THE YEAR 1902.

OTTAWA BEACH PROPERTY.

Improvements, including addition of					
28 rooms to Hotel Ottawa		\$6,563	33		
Additional Furniture and Fixtures		3,030	70	\$9,594	03
Purchase of Golf Grounds		\$6,000	00		
Paid for laying out Grounds		518	24		
Cost of Club House		1,090	00	7,608	24
Total					\$17,202 27

H.

COMPARATIVE STATEMENT EARNINGS AND EXPENSES.

1902 AND 1901.

RAIL AND MARINE EARNINGS.	1902.	1901.	INCREASE.	DECREASE.
From Freight	\$6,831,625.66	\$6,257,373.30	\$574,252.36	
“ Passenger	2,739,950.25	2,573,936.62	166,013.63	
“ Express	149,019.58	130,503.10	18,516.48	
“ Mail	220,479.24	220,725.85		246.61
“ Telegraph	2,168.24	7,290.39		5,122.15
“ Miscellaneous	12,132.10	11,345.94	786.16	
	<u>\$9,955,375.07</u>	<u>\$9,201,175.20</u>	<u>\$754,199.87</u>	
RAIL EARNINGS.				
From Freight	\$6,367,048.90	\$5,753,533.36	\$613,515.54	
“ Passenger	2,658,594.21	2,494,135.69	164,458.52	
“ Express	147,819.58	129,296.86	18,522.72	
“ Mail	217,366.74	217,605.85		239.11
“ Telegraph	2,168.24	7,290.39		5,122.15
“ Miscellaneous	12,132.10	11,345.94	786.16	
	<u>\$9,405,129.77</u>	<u>\$8,613,208.09</u>	<u>\$791,921.68</u>	
MARINE EARNINGS.				
From Freight	\$464,576.76	\$503,839.94		39,263.18
“ Passenger	81,356.04	79,800.93	\$1,555.11	
“ Express	1,200.00	1,206.24		6.24
“ Mail	3,112.50	3,120.00		7.50
	<u>\$550,245.30</u>	<u>\$587,967.11</u>		<u>37,721.81</u>
EXPENSES.				
General Expenses	\$230,474.03	\$199,389.13	\$31,084.90	
Maintenance of Way and Structures	1,480,422.42	1,586,996.52		106,574.10
Maintenance of Equipment	1,040,473.87	1,038,197.85	2,276.02	
Conducting Transportation	3,906,673.40	3,581,268.51	325,404.89	
Operating Marine Equipment, Taxes	462,824.67	422,187.59	40,637.08	
	389,665.33	282,172.42	107,492.91	
Total	<u>\$7,510,533.72</u>	<u>\$7,110,212.02</u>	<u>\$400,321.70</u>	
Net Earnings	\$2,444,841.35	\$2,090,963.18	\$353,878.17	
Interest Charges	1,451,704.56	1,356,388.74	95,315.82	
	<u>\$993,136.79</u>	<u>\$734,574.44</u>	<u>258,562.35</u>	
Average Expense ratio, including Taxes	75.44	77.27		1.83
Excluding Taxes	71.53	74.21		2.68
Mileage of Road operated	1,828.27	1,637.68		941
Gross Earnings per mile	\$5,445.24	\$5,002.81	\$442.43	
Operating Expenses per mile	4,108.00	3,865.92	242.08	
Net Earnings per mile	<u>\$1,337.24</u>	<u>\$1,136.89</u>	<u>\$200.35</u>	
Revenue Train Mileage, Fr't	3,779,308	3,562,343	216,965	
“ “ “ Pass'r	3,302,072	3,217,524	84,548	
Earnings, Freight Train Mile,	\$1.807	\$1.756	\$0.051	
“ “ “ Pass'r Train Mile	0.946	0.915	0.031	

I.
CLASSIFICATION OF FREIGHT TONNAGE
FOR THE YEAR 1902.

COMMODITY.	TONNAGE.	TOTAL TONS.	PERCENT.	TOTAL PERCENT.
PRODUCTS OF AGRICULTURE:—		1,71,254		16.26
Grain	261,360		3.63	
Flour	110,131		1.53	
Other Mill Products	112,998		1.57	
Hay	208,033		2.89	
Fruit and Vegetables	260,322		3.61	
Potatoes	218,410		3.03	
PRODUCTS OF ANIMALS:—		153,777		2.14
Live Stock	71,400		.99	
Dressed Meats	7,900		.11	
Other Packing House Products,	29,378		.41	
Poultry, Game and Fish	4,813		.07	
Wool	6,818		.09	
Hides and Leather	33,468		.47	
PRODUCTS OF MINES:—		2,132,615		29.60
Anthracite Coal	100,023		1.39	
Bituminous "	1,723,710		23.93	
Stone, Sand and other like	articles	263,983	3.66	
Salt	44,899		.62	
PRODUCTS OF FOREST:—		1,880,548		26.11
Lumber	943,554		13.10	
Logs	792,604		11.00	
Shingles	144,390		2.01	
MANUFACTURES:—		937,189		13.01
Petroleum and other Oils	41,040		.57	
Iron, Pig and Bloom	81,350		1.13	
Iron and Steel Rails	33,773		.47	
Other Castings and Machinery	72,944		1.01	
Bar and Sheet Metal	50,072		.70	
Cement, Brick and Lime	213,024		2.96	
Agricultural Implements	19,705		.27	
Wagons, Carriages, Tools, etc.	20,833		.29	
Wine, Liquors and Beers	29,397		.41	
Household Goods & Furniture,	46,461		.64	
Other Manufactures	328,596		4.56	
Merchandise		310,702		4.31
Ice		43,527		.60
Miscellaneous		574,027		7.97
Total		7,203,639		100%

J.

COMPARATIVE DETAILED STATEMENT OF OPERATING EXPENSES
FOR THE YEARS 1902 AND 1901.

GENERAL EXPENSES.	1902.	1901.	INCREASE.	DECREASE.
Salaries of General Officers	\$47,933 28	\$54,918 26	. . . . .	\$6,984 98
Salaries of Clerks and Attendants	88,399 18	76,463 33	\$11,935 85	. . . . .
General Office Expenses and Supplies	9,208 41	10,941 06	. . . . .	1,732 65
Insurance	18,404 61	14,328 51	4,176 10	. . . . .
Law Expenses	29,000 20	24,354 83	4,645 37	. . . . .
Stationery and Printing (Gen. Offices)	9,318 17	11,783 28	. . . . .	2,465 11
Other General Expenses	28,210 18	6,699 86	21,510 32	. . . . .
Total	\$230,474 03	\$199,389 13	\$31,084 90	. . . . .
MAINTENANCE OF WAY AND STRUCTURES.				
Repairs of Roadway	\$826,019 41	\$884,718 18	. . . . .	\$58,698 77
Renewals of Rails	57,092 57	73,755 38	. . . . .	16,662 81
Renewals of Ties	306,951 69	337,202 82	. . . . .	30,251 13
Repairs and Renewals of Bridges and Culverts	96,392 78	90,976 34	\$5,416 44	. . . . .
Repairs and Renewals of Fences, etc.	47,163 04	48,968 70	. . . . .	1,805 66
Repairs and Renewals of Buildings and Fixtures	117,095 81	119,969 67	. . . . .	2,873 86
Repairs and Renewals of Docks and Wharves	5,095 10	7,344 26	. . . . .	2,249 16
Repairs and Renewals of Telegraph	19,030 85	16,321 28	2,709 57	. . . . .
Stationery & Printing (Way & Struc.)	1,272 90	3,418 81	. . . . .	145 93
Other Way and Structure Expenses	2,308 27	4,321 06	. . . . .	2,012 79
Total	\$1,480,422 42	\$1,580,906 52	. . . . .	\$100,574 10
MAINTENANCE OF EQUIPMENT.				
Superintendence of Equipment	\$24,684 08	\$24,355 13	\$328 95	. . . . .
Repairs and Renewals of Locomotives	440,430 24	434,297 05	6,133 19	. . . . .
" " " Passenger Cars	158,650 62	189,441 44	. . . . .	\$30,790 82
" " " Freight Cars	348,774 60	312,188 22	36,586 38	. . . . .
" " " Work Cars	27,525 90	26,402 33	1,123 57	. . . . .
" " " Shop Machinery and Tools	21,156 42	25,664 40	. . . . .	4,507 98
Stationery and Printing (Equipment)	3,480 72	3,303 43	177 29	. . . . .
Other Equipment Expenses	25,771 29	22,545 85	. . . . .	6,774 56
Total	\$1,040,473 87	\$1,038,197 85	\$2,276 02	. . . . .

J.

COMPARATIVE DETAILED STATEMENT OF OPERATING EXPENSES
FOR THE YEARS 1902 AND 1901.—*Concluded.*

	1902.	1901.	INCREASE.	DECREASE.
CONDUCTING TRANSPORTATION.				
Superintendence (Transportation) . . .	\$114,198 16	\$99,732 02	\$14,466 14	
Engine and Roundhouse Men . . .	630,203 41	602,025 15	28,178 26	
Fuel for Locomotives . . .	798,341 04	652,725 68	145,615 36	
Water Supply for Locomotives . . .	39,806 57	38,973 50	833 07	
Oil, Tallow and Waste for Locomotives . . .	30,866 40	30,502 29	364 11	
Other Supplies for Locomotives . . .	18,404 35	15,985 70	2,418 65	
Train Service . . .	487,058 11	466,533 92	20,524 19	
Train Supplies and Expenses . . .	92,137 74	105,794 08		\$13,656 34
Switchmen, Flagmen and Watchmen . . .	265,601 74	241,401 42	24,200 32	
Telegraph Expenses . . .	98,925 41	91,664 52	7,260 89	
Station Service . . .	583,981 20	553,239 40	30,741 80	
Station Supplies . . .	37,707 34	34,279 03	3,428 31	
Switching Charges . . .	122,461 02	80,163 65	42,297 37	
Car Mileage . . .	100,653 67	90,892 88	9,760 79	
Hire of Equipment . . .	11,689 75	16,254 09		4,564 34
Loss and Damage . . .	58,410 09	50,152 18	8,257 91	
Injuries to Persons . . .	39,933 88	51,983 94		12,050 06
Clearing Wrecks . . .	13,518 91	13,875 72		356 81
Advertising . . .	29,694 40	36,340 18		6,645 78
Outside Agencies . . .	85,787 20	84,085 57	1,701 63	
Rents for Tracks, Yards and Terminals . . .	208,171 70	173,917 70	34,254 00	
Rents of Buildings and other Property . . .	(less) 17,126 48	(less) 6,050 84		11,075 64
Stationery and Printing (Transportat'n) . . .	55,835 63	52,032 96	3,802 67	
Other Transportation Expenses . . .	412 16	4,763 77		4,351 61
Total . . .	\$3,906,673 40	\$3,581,268 51	\$325,404 89	
Total Rail Expenses . . .				
	\$6,658,043 72	\$6,405,852 01	\$252,191 71	
LAKE TRANSPORTATION.				
Operating Marine Equipment . . .	462,824 67	422,187 59	40,637 08	
Grand Total Rail and Lake . . .	\$7,120,868 39	\$6,828,039 60	\$292,828 79	

K.**GROSS EARNINGS, OPERATING EXPENSES AND NET EARNINGS, BY MONTH,**

Earnings.	January.	February.	March.	April.	May.	June.
Freight	\$520,758.73	465,634.60	577,819.45	563,033.72	517,864.21	498,398.58
Passenger	167,760.31	145,330.01	190,346.87	180,511.76	186,378.86	222,037.47
Express	8,650.00	8,650.00	8,650.00	8,650.00	18,650.00	8,650.00
Mail	17,957.89	17,957.89	18,412.97	17,955.49	17,962.89	18,420.17
Telegraph	523.26	460.16	589.31	594.81	. . .	.70
Miscellaneous	846.02	914.23	959.30	853.54	865.30	1,046.36
Marine	55,500.68	37,076.99	35,577.74	37,097.70	33,076.91	39,776.80
Total	\$771,996.89	676,023.88	832,355.64	808,697.02	774,798.17	788,330.31

OPERATING EXPENSES.

General Expenses . . .	\$22,476.44	16,280.03	17,403.62	19,807.20	15,631.35	17,539.77
Maintenance of Way & Structures }	124,045.02	100,278.72	110,845.57	118,625.43	117,436.34	124,035.21
Maintenance of Equipm't,	98,275.38	91,004.45	98,051.66	81,231.16	84,529.57	75,529.45
Conducting Transportat'n,	345,787.02	286,682.34	331,693.09	318,033.42	295,706.95	295,427.13
Marine	32,899.12	33,690.63	30,927.78	32,386.53	33,930.36	35,408.10
Total	\$623,482.98	527,936.17	588,921.72	560,083.74	547,234.57	547,939.66
Taxes	28,364.79	28,304.62	27,979.82	28,230.55	28,053.85	28,269.37
Total Oper. Exp. & Taxes,	\$651,847.77	556,240.79	616,901.54	588,314.29	575,288.42	576,208.96
Net Earnings	\$120,149.12	119,783.09	215,454.10	220,382.73	199,509.75	212,121.41

PERE MARQUETTE RAILROAD COMPANY.

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K.

FOR THE YEAR ENDING DECEMBER 31, 1902.

July.	August.	September.	October.	November.	December.	Total.	Per cent. of Earnings.
447,655.91	480,139.62	586,742.46	616,294.26	542,606.41	550,100.65	6,367,048.90	63.96
291,575.40	333,220.85	270,505.94	227,772.86	204,775.66	238,378.22	2,658,594.21	26.71
8,650.00	18,650.00	8,650.00	8,650.00	28,650.00	12,669.58	147,819.58	1.48
17,977.64	17,983.71	18,393.52	17,966.43	17,962.43	18,415.71	217,366.74	2.18
.	.	.	.	.	.	2,168.24	.02
1,317.86	1,213.16	1,195.29	975.71	996.48	948.85	12,132.10	.12
40,930.89	56,250.37	49,681.99	67,491.15	49,727.61	48,056.47	550,245.30	5.53
808,107.70	907,457.71	935,169.20	939,150.41	844,718.59	868,569.48	9,955,375.07	100.00

15,667.98	14,074.30	18,563.60	16,150.77	16,212.98	40,666.04	230,474.03	2.32
124,500.84	128,836.61	135,611.67	131,601.65	133,029.08	131,776.24	1,480,422.42	14.87
82,426.92	76,767.91	85,664.42	96,254.43	78,178.32	92,560.16	1,040,473.87	10.45
312,488.68	329,315.44	341,998.91	361,950.91	338,271.03	359,318.48	3,906,673.40	39.24
36,502.64	41,123.87	44,975.77	43,448.59	45,138.64	52,392.64	462,824.67	4.65
571,387.06	590,118.13	626,814.37	649,406.35	610,830.05	676,713.56	7,120,868.39	71.53
32,513.51	30,343.00	29,909.78	26,822.49	29,158.18	71,715.47	389,665.33	3.91
603,900.57	620,461.13	656,724.15	676,228.84	639,988.23	748,429.03	7,510,533.72	75.44
204,207.13	286,996.58	278,445.05	262,921.57	204,730.36	120,140.45	2,444,841.35	24.56

1134

L.

FREIGHT STATISTICS.

	1902.	1901.
Freight Earnings	\$6,367,048.90	\$5,753,533.36
Miles run, freight trains	3,776,734	3,562,363
Miles run by loaded freight cars	58,643,812	53,979,474
Miles run by empty freight cars	22,119,053	18,603,986
Number of tons of revenue freight carried	7,203,639	6,439,447
Number of tons of revenue freight carried one mile	906,063,784	791,039,076
Number of tons of revenue freight per train mile	239.91	222.06
Number of tons of revenue freight per loaded car	15.45	14.66
Number of tons of revenue freight per mile of road	3,940	3,501
Average number of loaded freight cars per train	15.53	15.43
Average number of empty freight cars per train	5.85	5.42
Average number of loaded and empty freight cars per train	21.38	20.77
Average miles each ton of revenue freight was carried	125.78	122.84
Average amount received per ton of revenue freight	\$0.8838	\$0.8935
Average revenue from freight per train mile	\$1.686	\$1.615
Average revenue per ton of revenue freight per mile	\$0.00703	\$0.00707
Average revenue from freight per mile of road	\$3,482.55	\$3,188.61

PASSENGER STATISTICS.

* Passenger earnings	\$2,658,594.21	\$2,494,135.69
Miles run, passenger trains	3,304,646	3,217,534
Number of passengers carried	3,593,454	3,388,443
Number of passengers carried one mile	130,049,384	123,739,849
Average miles each passenger was carried	36.19	36.58
Average revenue received from each passenger	\$0.7398	\$0.7373
Average revenue from passengers per train mile	\$0.8045	\$0.7751
Average revenue per passenger per mile	\$0.0204	\$0.0201
Average revenue from passengers per mile of road	\$1,454.16	\$1,356.09

TONNAGE, COMPANY FREIGHT HAULED DURING THE YEAR 1901.

CARRIED ON REVENUE TRAINS ONLY.

	Tons.	Tons One Mile
Coal	531,752	94,446,779
Material and supplies	273,989	27,251,074
Total	805,741	121,697,853

*Mail and express earnings \$365,186.34 not included.

PERE MARQUETTE RAILROAD COMPANY.

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L.

MARINE STATISTICS.

	1902.	1901.
Freight:		
Earnings from freight	\$464,576.76	\$503,839.94
Number tons revenue freight carried . . .	1,009,114	1,022,419
Average amount received from each ton . .	\$0.46038	\$0.49279
Passenger:		
Earnings from passengers	\$81,356.04	\$79,800.93
Number of passengers carried	44,224	39,642
Average amount received from each passenger	\$1.84	\$2.01
Express:		
Earnings from express	\$1,200.00	\$1,206.24
Mails:		
Earnings from mails	\$3,112.50	\$3,120.00

MISCELLANEOUS STATISTICS.

Total miles run by revenue trains	7,081,380	6,779,867
Maintenance of equipment per revenue train mile . .	\$0.1469	\$0.1531
Station service per revenue train mile	\$0.0825	\$0.0816
Train service per revenue train mile	\$0.0688	\$0.0688
Engine and roundhouse men per revenue train mile .	\$0.0890	\$0.0888
Train and station supplies per revenue train mile . .	\$0.0183	\$0.0207
Fuel for locomotives per revenue train mile	\$0.1127	\$0.0963
Oil, tallow and waste for locomotives per revenue train mile	\$0.0044	\$0.0045
All other expenses per revenue train mile, including taxes	\$0.5380	\$0.5349
Total operating expenses per revenue train mile, including taxes	\$1.0606	\$1.0487
Total operating expenses per revenue train mile, excluding taxes	\$1.0056	\$1.0071
Percentage of expenses to earnings, including taxes .	75.44	77.27
Percentage of expenses to earnings, excluding taxes .	71.53	74.21

M.

MILEAGE.

December 31, 1902.

Divisions, including Branches thereon:

			Main Line.	Business Producing Branches, Miles.
Toledo	Division, between Alexis and Saginaw		174.20	124.51
Bay City	" " Saginaw and Bay City		25.66	19.31
Ludington	" " Saginaw and Ludington		190.75	78.55
Manistee	" " Merritt and Manistee		27.06	8.17
Port Huron	" " Saginaw and Port Huron		124.39	13.49
Port Austin	" " Port Huron and Grindstone City		110.63	17.71
Petoskey	" " Grand Rapids and Bay View		250.81	15.96
Big Rapids	" " Herry and Big Rapids		52.04	5.15
Muskegon	" " Allegan and Pymwater		132.97	47.00
Detroit	" " Plymouth and Delray		29.42	11.78
Grand Rapids	" " Plymouth and Grand Rapids		137.15	52.01
Saginaw	" " Findale and Paines		102.58	84.16
Ionia	" " Grand Ledge and Big Rapids		166.77	13.39
La Crosse	" " La Crosse and New Buffalo		37.61	6.57
Chicago	" " New Buffalo and Grand Rapids		114.94	96.71
Saginaw, Tuscola and Huron R. R.			65.79	20.30
Total mileage owned			1,742.81	25.50

Leased Lines:

Grand Rapids, Kalkaska & South Eastern R. R.	12.90	7.83	7.95
--	-------	------	------

Trackage Rights:

M. C. R. R. Co. between Lansing and North Lansing	1.04		
" " " " Merahon and Paines	6.70		
Ann Arbor R. R. Toledo and Alexis	6.63		
Detroit Union R. R. & Station Co., Delray and 18th St., Detroit	3.14		3.44
Fort St. Union Depot Co., 3d St. and 18th St., Detroit	1.36		
12th St. Yards, Detroit			5.51
Detroit & Mackinaw Bridge, Bay City, (P. M. owns one half)	.26		
	19.23		8.95

RECAPITULATION.

Mileage owned	1,742.81	25.50	586.05
Leased lines	32.90	7.83	7.95
Trackage rights	19.23		8.95
Total	1,794.94	33.33	602.95
Add business producing branches	33.23		
Total	1,828.17		

PERE MARQUETTE RAILROAD COMPANY.

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N.

ROLLING STOCK IN SERVICE, DECEMBER 31, 1902.

Locomotives Owned by P. M. R. R. Co.:—

8 wheel	114	
10 wheel	32	
Moguls	38	
Consolidated	14	
Chautauqua	3	
Switch	43	
Special	1	
Narrow Gauge	4	249

Locomotives Owned by Marquette Equipment Co., Ltd.:—

Moguls	4	
Consolidated	7	
Chautauqua	5	
Switch	1	17
		266

Freight Cars Owned by P. M. R. R. Co.:—

Refrigerator	11	
*Box	4,204	
Furniture	396	
Stock	86	
Charcoal	103	
Flat	2,397	
Coal	907	
Miscellaneous	131	
Caboose Cars	116	8,351

Freight Cars Owned by Marquette Equipment Co., Ltd.:—

Box	900	
Coal	200	
Caboose	10	1,110

Freight Cars Owned by Western Equipment Co.:—

Refrigerator	99	
Flat	100	199
		960

Passenger Cars:—

Official Cars	5
Sleepers	2
Parlor	15
Parlor Observation	4
Buffet Parlor	1
Café Coaches	4
First-Class Coaches	94
Smokers	59
Baggage and Smokers	31

PERE MARQUETTE RAILROAD COMPANY.

Baggage, Mail and Smokers	.	.	.	.	.	.	.	.	.	0
Mail	.	.	.	.	.	.	.	.	.	0
Baggage, Mail and Express	.	.	.	.	.	.	.	.	.	25
Baggage	.	.	.	.	.	.	.	.	.	14
Baggage and Express	.	.	.	.	.	.	.	.	.	5

Narrow Gauge Car Equipment:—

Box	.	.	.	.	.	.	.	.	.	60
Refrigerator	.	.	.	.	.	.	.	.	.	3
Stock	.	.	.	.	.	.	.	.	.	13
Coal	.	.	.	.	.	.	.	.	.	8
Flat	.	.	.	.	.	.	.	.	.	20
Flat (leased)	.	.	.	.	.	.	.	.	.	10
Snow Plow	.	.	.	.	.	.	.	.	.	0
Tool Car	.	.	.	.	.	.	.	.	.	0
Caboose	.	.	.	.	.	.	.	.	.	1
Coaches	.	.	.	.	.	.	.	.	.	5
Baggage, Mail and Express	.	.	.	.	.	.	.	.	.	1
Baggage, Mail and Smoker	.	.	.	.	.	.	.	.	.	0

*1920 Box cars owned by F. & P. M. Series B, Trust, included.

PERE MARQUETTE RAILROAD COMPANY.

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O.

BOSTON, December 31, 1902.

WILLIAM W. CRAPO, } TRUSTEES UNDER MARQUETTE EQUIPMENT CO.,
OLIVER W. MINK, } LIMITED, MORTGAGE, DATED AUGUST 24, 1900.
CHARLES MERRIAM, }

In account with

PERE MARQUETTE RAILROAD COMPANY.

Balance cash on hand, December 31, 1901	\$46,959 48
Received from Pere Marquette Railroad Co., from January 1, 1902, to December 31, 1902, inclusive, as payments to the Sinking Fund, as provided in said Mortgage	114,000 00
Received interest on deposits to December 31, 1902	1,515 94
Total	\$162,475 42
Paid and cancelled \$119,000 of the \$127,000 Marquette Equip- ment Co., Limited, 1st Mortgage 5% bonds, \$1,000 each, with coupons of and from April 1, 1903, attached, at par, flat, drawn for payment October 1, 1902	119,000 00
Balance cash on hand December 31, 1902	\$43,475 42
Bonds drawn for payment at par October 1, 1902, on which date interest ceased, but which have not yet been presented to the Trustees: \$8,000 Nos. 137, 139, 143, 152, 160, 165, 677, 679	8,000 00
Balance available for future bond drawings	\$35,475 42

Dec. 31, 1902.

Total bonds outstanding at this date, not including the \$8,000

bonds above mentioned already drawn for payment \$797,000 00

P.

LAND DEPARTMENT.

DETROIT, MICH., January 1, 1903.

TO CHARLES MERRIAM, *Treasurer*.

Herewith I submit statement of the business of the Land Department during the year 1902:—

There has been sold by the Land Commissioner 4,543⁵¹/₁₀₀ acres at an average price of \$5.54 per acre, amounting to . . . \$25,184 29

The receipts during 1902 from land sales and land contracts were as follows:—

Principal		\$22,682 83
Interest on Contracts		2,663 43
		<hr/>
		\$25,346 23
Interest received on Deposits		443 39
		<hr/>
		\$25,789 62
Payments have been made for Taxes	\$2,603 95	
Expenses of Land Commissioner's Office	1,046 00	
Trustee and Clerical Services	375 00	\$4,024 95
		<hr/>
Balance paid to Charles Merriam, Treasurer		21,764 67
		<hr/>
		\$25,789 62

Bills Receivable on hand December 31, 1902:—

Principal	\$35,714 70	
Interest	5,814 49	\$41,529 19
		<hr/>

There remain unsold at this date 30,341²⁸/₁₀₀ acres.

WM. W. CRAPO,

Trustee.

1142 HENRY C. ADAMS recalled for the defendant.

Redirect examination by Mr. KNAPPEN :

Question. Prof. Johnson in his capitalization of the earnings of the Michigan Central Railroad Company, has added to his capitalization rate the rate of taxation assessed on Michigan railroads for 1902. In your judgment, is that proper ?

Mr. BUTTERFIELD : I object to that as incompetent and irrelevant and not proper sur-rebuttal.

Answer. That is not a proper method in my opinion for the valuation as required in this case because,

1st. There is no evidence warranting the conclusion that the cash value of Michigan railroad properties as measured by the market quotations of securities was less on April 14, 1902, than it would have been had act 173 of 1901 not been passed, but going outside of the quotations there are some other considerations that bear upon the point in question.

Michigan railway property shows the same general tendency towards an increase in price of their securities as the railway properties of other States. Michigan also contributed her full share to the railway construction of the United States during the year in question, thus indicating that investors in railway property could not have been influenced by the fear of increased taxation.

So far as I can see from a rather careful study of the situation, there is no evidence of a depressing influence of act 173, and it 1143 does not seem to me that the assessor is called upon in valuing any railway property at any particular time, to anticipate results that may or may not become effective in the future.

2nd. To reduce the values of railway property to an amount equal to the capitalization of the increased tax, holding in mind the so-called Adams-Cooley method of appraisal, would be to treat railway property differently from the manner in which local assessors treat general property. For example, the assessment of 1903 as compared with that of 1902 shows an increase of rate as well as an increase in valuation, meaning an increased payment on account of general property. The local assessor after the increased taxes affect the property's cash value, then enters ~~the~~ new value on his book in a new appraisal. This is emphasized ~~by~~ the fact that the purpose of an annual appraisal is to enable changed commercial conditions to find their way into the assessments. So with annual assessments there is no need to anticipate results.

3d. The Adams-Cooley method of valuation makes no allowance for speculative or anticipated values, and should not be called upon to bear the burden — the anticipated deduction in value. This perhaps could not be said of a valuation by means of market quotations of stocks and bonds, as according to this rule anticipation of future gain is permitted in the present valuation, but it does seem a pertinent consideration when the question of adding a tax rate upon

general property to the rate of capitalizing the net surplus comes in question.

4th. The doctrine of capitalization is incomplete except in connection with those of the diffusion of taxes. This is true because no tax would be capitalized that can be diffused. Therefore, before we can say that an increased tax will result in a reduction of value of the property on which laid, we must be satisfied that the commercial conditions, so far as the prices that can be secured for services rendered and costs incident thereto are concerned, will not be
1144 influenced by the fact of increased taxation.

Any increased burden such as an increased tax which tends to narrow the margin of profit, will result 1st, in an effort to raise the price of the product. And 2nd in an effort to economize the cost, and to the extent to which either of these efforts is successful there is no change in the property's value. In view of the history of technical railway development in the past it seems extremely hazardous to forecast the manner in which an increased tax will show itself in the economies of railway administration. Business is controlled as much or more by fear of loss as of hope of gain, and it is fear that is brought into the field of action when the business man finds his accustomed rate of profit endangered by the imposition of a new tax. Another fundamental principle to be held in mind is the relation which the railway property bears to property in general. The important question is whether the increased taxation has burdened the property in question more highly than general taxes burden general property. If not, there is no inducement for an investor to sell out his investments at a reduced figure for he cannot overlook the question as to what he is to do with his money.

The correct comparison does not lie between the condition of the investment in railway property before and after the imposition of a new tax, but between an investment in railway property after an increased tax and an investment in other form of property. To reduce the valuation of a railway on account of the increased tax, it would be necessary to show that the valuation of this property to the tax included the capitalization of a previous immunity from taxation, which would be a difficult proposition. Investors in railway property must have known that the immunity from taxation could not long be tolerated.

It is essential to proper capitalization of income that it be perpetual. If it be temporary or exposed to unusual risks, the capitalization would be very small. In theory, the extreme limit
1145 to which the reduction for capitalization on account of increased taxation can be carried in the case in question, is the amount of the increased value prior to 1901 enjoyed by railway properties on account of their exemption from equal taxation.

Prior to 1901 the Michigan railways paid less taxes per mile of line than were paid by the railways of adjacent States, and in general less than those of the United States, being in a relatively better posi-

tion than that occupied by general property and by the railroads of other States. Under such conditions an increased tax will not exert any considerable influence in the property's valuation.

Q. Prof. Johnson stated that it was proper in arriving at the net earnings to be capitalized to allow the payment out of operating expenses in addition to sums necessary to maintain the property, of further sums for the purpose of keeping the property abreast of technical development. In your opinion is that practice proper for the purpose of capitalization for the purpose of taxation.

Mr. BUTTERFIELD: That is objected to as incompetent and irrelevant and not proper sur-rebuttal.

A. It seems to me that in theory, capitalization for taxation purposes rests on what may be termed "integrity of income," meaning a statement of the net income which actually accrues to a property during a specific period—say a year. To burden operating expenses with more than enough to carry on the business and maintain the property equal in condition to that at the beginning of the year, would result in a smaller net income than the true net income.

I have always regarded it as a principle that the earnings of a specific year should be burdened only with the expenses of
1146 that year incident to those earnings. Adding improvements to keep the property abreast of technical developments results in burdening the earnings of that year with expenses more or less permanent in character which does not seem to be in harmony with the true definition of net income.

I make no criticism of the policy of making payments of that class out of current earnings, or maintaining rates sufficient to permit it, for other purposes than taxation. Improvements to keep the road abreast of technical developments result in the development of the property enabling it to operate it more economically and to take care of probably a larger amount of business, resulting in permanent advantage to the corporation, and (under the same objection by Mr. Butterfield) many of these improvements would result in increasing the property's earning capacity, *e. g.* better safety appliances by decreasing the expenditure for loss and damage result in increasing the net earnings which would also be true of locomotives and cars of increased capacity. The capacity of engines and freight cars has been largely increased in the last few years; grades are being reduced and lines straightened, all of which results in increased tonnage per train, and increased speed; and economy results because neither the employees nor the capital involved in moving the traffic are employed for a given amount of earnings for so long a time. It would be difficult to find any of these improvements known as technical developments which do not result either directly or indirectly in financial advantage and increased return.

Q. In your opinion is it proper or permissible that the net earnings of a road for a period of ten years should be taken from which

an average of earnings should be obtained for the purpose of capitalization, and that the road should be allowed to fatten itself or create or add to equipment for the purpose of meeting the depression of low periods.

Mr. BUTTERFIELD: I object to that for the same reason as before.

Mr. KNAPPEN: I wish to say before the question is answered, I am not inviting a discussion on the ten year period. The witness has expressed his opinion fully about the period for which an average should be taken. It is the general question taken together that I am asking.

A. The error in taking a ten year period, including lean years in the past and practically taking out of the earnings of five previous years enough to enable the road to recoup itself for what it might have lost, and in addition to that to take out of the current earnings an amount to provide against lean years in the future, in reality burdens the five years prosperous period with two lean periods and practically so far as the result is concerned, would be taking a fifteen year period. If each decade has lean and fat periods, the fat had ought to be burdened with only one lean period.

I have examined the betterment statement of the Michigan Central, (being Exhibits 2 and 3. May 31, 1904, in connection with the testimony of Mr. Comstock,) showing the betterments on that road charged to operating expenses to determine what amounts contained therein were betterment to existing property, and what were new property, and the results which would have been shown had they not been paid for out of operating expenses. In separating the aggregate amounts I have accepted the figures of Prof. Johnson submitted when he was on the stand, and to that extent have made a classification of the items. Prof. Johnson selected certain items which he said included the purchase of new and additional equipment and real estate and aggregated them, the remainder of the footings for the years contained in the schedules of betterments would be betterments to existing property. I dislike to be understood as concurring in the items Prof. Johnson gave as expended in addition. There may be others included under betterments that should be transferred to additions. Upon this assumption my results stated by calendar years are:

Character expenditure.	Year.	Michigan Central.	Canada Southern.	System.	Percentage earned on stock over dividend and surplus.	
					M. C.	C. S.
Betterments	1898	\$296,240 12	\$87,776 63	.....	.....	.....
Additions	1898	39,827 26	13,958 62	.....	.....	.....
Total betterments charged to operating expenses.....	1898	\$336,067 38	\$101,735 25	\$437,802 63	1.8	.067
Betterments.....	1899	\$270,741 31	\$230,999 27	.....	.....	.....
Additions	1899	366,931 14	194,518 34	.....	.....	.....
Total betterments charged to operating expenses.....	1899	\$637,674 45	\$425,518 22	\$1,063,192 67	3.4	2.7
Betterments.....	1900	\$448,653 88	\$123,526 04	.....	.....	.....
Additions.....	1900	140,847 10	105,495 40	.....	.....	.....
Total betterments charged to operating expenses.....	1900	\$589,500 98	\$229,021 44	\$818,522 42	3	1.5
Betterments	1901	\$540,453 55	\$456,274 05	.....	.....	.....
Additions... ..	1901	321,590 07	89,734 34	.....	.....	.....
Total betterments charged to operating expenses.....	1901	\$862,043 62	\$545,008 39	\$1,409,052 01	4.5	4.6
Betterments.....	1902	\$519,308 57	\$383,264 88	.....	.....	.....
Additions.....	1902	416,151 13	140,718 41	.....	.....	.....
Total betterments charged to operating expenses.....	1902	\$934,459 70	\$523,983 29	\$1,459,442 99	5	3.5

The amounts added to the old property I give on the assumption that Prof. Johnson is correct in his division as to the amounts. I do not answer as to the correctness of that. I understand the general result to be that the schedule of betterments is an amount which was put into betterments after taking care of depreciation and renewals, which naturally come in the operating expense account. The report of the directors to the stockholders is substantially the same in so far as the aggregate results are concerned as those made to the public authorities. The percentages given would be earnings in addition to both the dividend and surplus reported, *i. e.* if the report showed that they had earned 6 per cent. this earning would be in addition to that 6 per cent.

Q. Mr. Simpson, a witness for the Pere Marquette, in his testimony of the amount expended in improving and adding to the physical assets of that road during the year 1900, and what in his judgment should have been expended to keep the equipment and the physical assets in as good condition as they were at the commencement of the year, referred to the report of the board of directors for that year, and says, that in arriving at the operating expenses of that year as shown by that report, no allowance was made for depreciation or the wear and tear of equipment and building; was that statement true?

A. It is not true as I understand railway accounts, because the classification of operating expenses followed by the Pere Marquette provides for depreciation. The object of a depreciation account is to collect a fund during the life of a given piece of property so that when it is worn out either the original cost or a new bit of property can be restored to the investor, and any adjustment of accounts or theory of expenditure by means of which that is done may be said to include in it a provision for depreciation.

The rule of charging to operating expenses followed by the Pere Marquette includes in operating expenses not only repairs of locomotives, bridges and other such property, but it provides for a replacement out of the current earnings when the property is worn out.

I read in illustration of what I have endeavored to explain, account 12, under maintenance of equipment which bears the heading "Repairs and renewals of locomotives" from the classification of operating expenses as prescribed by the Interstate Commerce Commission in connection with section 20 of the act to regulate commerce; this classification is followed on the Pere Marquette without serious modification.

1149½ "This account includes all expenditures for account of repairs, renewals and rebuilding of locomotives, tenders, snow-plows when attached to locomotives, furniture and loose and movable tools and supplies used in connection therewith. It also includes repairs of a pusher engine and tender belonging to another road over which trackage rights are granted. It also includes the cost of locomotives, tenders and appurtenances thereto belonging,

built or purchased to make good the original number of charges to construction or equipment, including royalty for patent, steam and other power brakes, and brake fixtures, less the value of old material, insurance or re-payments from other roads."

Then follows in fine print in the classification two pages of detailed statement of the items to be charged.

In the Interstate Commerce Commission classification there is a similar schedule for each class of equipment and for maintenance of way. It therefore follows that there is properly chargeable to operating expenses an amount designed to maintain the property, that the property does not depreciate and therefore no further depreciation can properly be allowed.

In each of the Pere Marquette reports 1900, 1901 and 1902 there is contained items for maintenance of equipment including renewals and repairs of locomotives, repairs and renewals of passenger cars, repairs and renewals of freight cars, repairs and renewals of work cars, repairs to roadway, rails, renewals of ties, repairs and renewals of bridges, culverts and fencing, and other items of maintenance and way of structures, with figures carried out and entered in the operating expense account against every sub-account, so that it appears that there had been such items which had been actually paid out for the purposes named.

The opinion of whether the amount actually paid out for repairs and renewals was sufficient to overcome the depreciation must rest upon either the experience in paying it out and including it in the account, or be theoretically based upon the experience of others as to what would be a normal depreciation.

I heard Mr. Simpson's testimony as to the method by which he took a percentage of the theoretical depreciation based upon the supposed life of various classes of equipment, and understood he adopted a theoretical depreciation upon what he assumed the life of the property in question to be.

1150 The Interstate Commerce Commission has compiled data for the roads of the United States from which the normal or typical expense of maintaining right-of way, structures and various classes of equipment against depreciation, including repairs, renewals and substitution, can be determined. The word "depreciation" does not occur in railway reports to the Interstate Commerce Commission, it is covered by the phrase "renewals and repairs" in the official classification. I know of no better source or guide for determining theoretically depreciation or cause of renewals than the Interstate Commerce Commission's statistics.

I have taken from the Interstate Commerce Commission's statistics the average cost of maintaining a locomotive in the United States covering both repairs and renewals, which is as follows:

1895...	\$1,150	1897...	\$1,240	1899...	\$1,450	1901...	\$1,573
1896...	1,283	1898...	1,354	1900...	1,650	1902...	1,963

The average for the years given is \$1480. The number of Pere Marquette locomotives in 1900 was 224 as given in the report to stockholders; the amount charged that year against repairs and renewals of locomotives was \$389,469 which gives the amount per locomotive of \$1738. Mr. Simpson states \$172500 should be added making a sum, which according to his testimony should have been charged in operating expenses against repairs and renewals of locomotives, of \$561,969 which would have been an expenditure per locomotive of \$2584. For the cost of maintaining passenger cars with repairs and renewals (the figures with reference to the Pere Marquette being taken from the reports to the stockholders) I find the following :

	1900	1901	1902	Average.
For United States, from statistics.....	\$598 00	\$631 00	\$644 00	\$626 00
Actual expenditure, Pere Marquette..	697 00	710 00	570 00	659 00
Pere Marquette, after adding additional amount claimed by Simpson..	1,425 00	.....	.....	1,425 00

1151 For the maintenance of freight cars (the Pere Marquette figures being from the same source) I find

	1900	1901	1902	Average.
For United States, from statistics...	\$51 90	\$50 00	\$53 20	\$51 70
Actual expenditure, Pere Marquette	48 20	35 00	36 00	39 70
Pere Marquette, after addition of amount claimed by Mr. Simpson...	85 00	.....	.....	85 00

I have made no comparison in other items and have not looked it over to see how it would come out. I compared the percentage of aggregate operating expenses under the headings "Maintenance of way and structures" and "Equipment" and the aggregate of operating expense for the Pere Marquette with the corresponding percentages with the railroads of the United States. The general result is that the maintenance of way and structures is slightly higher for the Pere Marquette than for the railroads of the country, and the maintenance of equipment a very slight percentage lower (locomotive and passenger cars being higher and freight cars lower). A comparison shows that the Pere Marquette accounts, so far as operating expenses are concerned, are about the same as the average railroad of the United States, and the additions proposed by Mr. Simpson would bring them far in excess.

I have considered the question of the propriety of the charges by the Pere Marquette to accounts other than operating expense stated

1152 by Mr. Simpson to be such as should have gone to operating expense; in his testimony he has not followed the customary rules of railways in adjusting accounts, *e. g.* he says the entire purchase price of a gravel pit should be charged to operating expense. It is not customary with railroads to charge the entire amount of a gravel pit to operating expenses, but to charge each year to operating expenses the amount of gravel used; principle being that operating expenses shall be made to bear the expense when it has been put into use; a contrary rule would result in charging to the current year property which might not be used for ten or fifteen years; this principle would apply to a great many other items, *e. g.* rails, new engines; amounts paid on equipment trust bonds ought not to go in operating expenses,

(a) for the same reason new locomotives should not;

(b) as a portion of payment is interest; to place this amount in operating expenses would be equivalent to charging interest on debt to operating expense, which no one would contemplate.

The \$210,000 expended by the Michigan Central for improvements in excess of those charged to operating expenses, for the year ending June 30, 1902, is in excess of the percentages given of amounts earned in addition to dividend and surplus.

Cross-examination by Mr. McPHERSON:

The Pere Marquette makes reports to the Interstate Commerce Commission in harmony with the prescribed forms and there is no evidence in the reports filed that they do not conform to the spirit of rules laid down.

If a railroad company charges to construction an item which should be charged to operating expense, it is by the form called to the commission's attention. The commission has never met with great success in securing a voluntary statement of roads generally of that portion of current cost or expenditure pertaining to improvements or betterments.

1153 I see no objection to the item in the construction account in the annual report of the Pere Marquette to the stockholders, 1902, for new equipment, (\$1,028,000), remaining there and increasing the cost of property; that is true, so far as a determination of the net earnings for the year is concerned, if the new takes the place of worn out equipment.

If the company bought a million dollars' worth of equipment, to take the place of equipment worn out, that should not be treated as an operating expense; if in years past the stockholders received dividends, that ought to have been used to keep up the equipment the stockholders ought now to bear that expense if necessary; from fact that the equipment was purchased to take the place of that worn out, must assume that the classification of operating expenses in the past has not been maintained; otherwise, no new equipment would be bought as a substitute for old; if an engine was permitted to drop

out and the stockholders received a dividend, they received it out of money which should have gone to maintain property.

Q. Suppose during ten years while the equipment is being worn out, there has been no charge to operating expenses for depreciation, is it proper to take operating expenses on that basis to determine net earnings?

A. I do not think that assumes a possible situation; it would mean that through years when no depreciation was allowed, nothing would be charged to operating expenses except repairs; operating expense covers renewals, as well as repairs and so provides for the maintenance of the property.

If a company purchases a million dollars' worth of equipment, and uses it ten years, charging only the cost of repairs to operating expense, and when it is worn out and it is compelled to buy a million dollars' worth to take its place, the new purchase is not chargeable to the operating expenses of a particular year; it is a frequent practice of roads, desirous of maintaining the integrity of income account year by year, to spread an expenditure which ought to be
1154 borne by earnings over ten years in future by charging one-tenth to operating expense of each year; the object of the classification of operating expenses is to establish a sinking fund whereby is set aside earnings each year to provide for renewals.

The rules of the Interstate Commerce Commission make no provision for a sinking fund or a similar method of accounting to take care of new equipment, when purchased; new, taking place of old, equipment is included in the classification of operating expenses under the head of "renewals;" the interstate commerce forms (pp. 27 and 29) provide three places for charging equipment and permanent improvements, (a) included in operating expenses; (b) charged to income account as current improvements, which is exclusive of operating expenses, thus taking them out of earnings and (c) charged to construction or equipment, resulting in an increase of capital; the commission has not undertaken to decide on the financial policy of a corporation, but its form is adjusted to the conditions and practice of various roads; the roads are left to choose to what account they will charge different items; all that is required by the commission is a report of the amounts charged on the books, regardless of whether they are correctly charged on the net earnings theory or not.

I think the net earnings shown by a railroad's reports, where railroad charges such amounts as it chooses to operating expenses or permanent betterments, is a reliable basis for determining value for taxation, if I can investigate the items; I would wish to satisfy myself, before adopting the basis of valuation of what enters into value of property and what the practice of the road is; I have investigated the Pere Marquette and am satisfied that its reports on this point are correct, and that the net earnings shown by the reports to stockholders for 1901 and 1902, show actual net earnings upon which to safely base value for taxation.

Q. In 1901 the Pere Marquette purchased \$1,250,000, and in 1902 \$1,100,000 worth of new equipment, and during those years, only \$27,000 of that new equipment was charged to operating expense, do you think that amount would take care of depreciation on \$2,500,000 worth of equipment during those years?

A. In my opinion none of that should go to operating expense if the object is to find the net earnings of the current year; all is new equipment, and you have already, in those years, expended in operating expenses, the normal amount for repair and maintenance of equipment; the replacing of worn out, with new equipment will be taken care of through the item "renewal" in operating expense.

The classification of operating expenses, covering renewals is equivalent to a sinking fund, with results the same as though a sinking fund for each locomotive was established; the amount charged by the Pere Marquette to renewals covers the normal amount, the amount expended on its engines in 1900 being in excess of that expended by the roads of the country at large by \$150. I get the normal from the average in the reports to the Interstate Commerce Commission; it is commonly said, based on experience in operating offices that \$1,500 per year is the charge for renewing and maintaining a locomotive.

The cost and life are elements going into the annual cost of a locomotive, and they are reflected in the results given of average repairs and renewals, taken from the reports to the Interstate Commerce Commission; the Interstate Commerce Commission exercises no direct authority over what shall be charged to renewals, repairs or construction; the Pere Marquette has not deviated far from the universal rule, in charging to operating expenses and its figures conform closely to the typical figures for roads of the country. If Mr. Simpson testified that new equipment (Pere Marquette) to take the place of old, worn out, was not charged to operating expenses, I am not willing to adopt his statement; I should examine the company's books, before accepting it as true; have not been refused permission to examine the Pere Marquette's books.

My testimony is against the accuracy of Mr. Simpson's theoretical depreciation; I compare the amounts Mr. Simpson finds reported as renewals and repairs of locomotives in operating expense with the normal cost, from the Interstate Commerce Commission's reports, and find that for the year on which I testified that the Pere Marquette's cost is above normal; I add Mr. Simpson's additions for depreciation to it, and find that it brings an abnormal expenditure, and present it as a consideration against the accuracy of Mr. Simpson's theory.

I have examined these items for other roads; a person following these items year after year, gets impressions and normal measurements in his mind, which undoubtedly influence his opinion.

To get the average expended by the Pere Marquette for repairs

and renewals of locomotives and other equipment, I took the amount of equipment at close of the fiscal year.

I understand by equipment trust bonds, that the company pays for its equipment in annual installments; I have never examined these trust bonds of the Pere Marquette; generally the payment covers two items—a portion of the principal and interest.

In the application of strict accounting the principal should be charged to construction and the interest to interest account; if the road wishes to pay for new locomotives from current earnings, the entire amount would be charged to income account.

Q. Assume a railroad company just started in business, with no equipment; it purchases freight cars to be paid for in 15 annual installments, when cars will be worn out; to what account should annual installments be charged if the company desires to make net earnings, shown by its books actual net earnings for purpose of taxation?

A. The principal should be charged to construction and interest to interest account.

If the classification of operating expenses has been followed the road has, when cars are worn out, a fund with which to buy the same amount of equipment, taken from current earnings from year to year and charged through operating expenses. It would amount

to charging annual installments of cost of equipment to construction, and setting aside an equal amount out of operating expenses to buy new equipment. You would not obtain correct results by charging annual payment for equipment to operating expenses, as you would have no money at end of 15 years to again buy equipment.

Q. You would buy it the same as you did the last?

A. You can, if a company desires to adopt that policy.

Q. On the assumption that I made, the proper way to handle your annual payment is to charge it to operating expenses, isn't it?

A. I should say that was a very unusual method of procedure."

Q. The Pere Marquette purchased two million dollars of equipment on trust plan, on installments, it has not created a sinking fund to purchase new equipment, when this is worn out, what shall be done with the annual payments?

A. I think that a road which carries operating expenses at 70 per cent. and on examination shows it gives repairs and renewals equal to other roads, is taking care of its equipment; my answer is correct (on theory that testimony in relation to Pere Marquette method of handling equipment is false) or I do not properly interpret the accounts.

If a company desires not to have its capital cover its equipment, it might charge this to operating expenses, but it would never own its own equipment.

It should charge these annual payments to operating expenses or should cover renewals and repairs by sinking fund; have reason to believe Pere Marquette has the equivalent of a fund to care for its

equipment when worn out, when its auditor says it follows Interstate Commerce Commission's classification of operating expenses.

If Pere Marquette has more than doubled its equipment within the last three years the depreciation is taken care of in account 12 of classification of operating expenses, under renewals under rule providing that out of current earnings road may take care of repairs and renewals; the classification establishes the equivalent of a sinking fund for each and every species of property and the result will be identically the same at the end of 20 or 50 years, so far as maintenance of the property is concerned, if this classification is followed, as it would be if you had a sinking fund for every engine.

The rule is true for the three years when the equipment was doubled, except that upon the new equipment, there would be fewer repairs, than on that used for a longer period and no renewals for a series of years; therefore the percentage of renewals might vary from normal; of absolutely new equipment, there would be less to come out of operating expenses for renewals and repairs than after it began to wear out; influence of new equipment on operating expenses can be measured only when we take new equipment in connection with old.

That 50 per cent. of equipment was new would have an influence on the average expenditure and decrease it; if the Pere Marquette books are correct, according to the theory of the Interstate Commerce Commission, and one-half of its equipment has been practically new and additional, there would be a slight deviation from normal in operating expense; the ratio of repairs and renewals to the total operating expense is about 7 to 7.5 per cent., and this situation would affect that portion. The valuation in this case has not been made by any rule, every road is taken by itself; its accounts are studied and if the situation indicates any deviation or modification, in application of my method it is adopted; by study of conditions,—I have determined the rate of capitalization.

Cross-examination by Mr. BUTTERFIELD:

The application of my theory of valuation does not add to net earnings, the items contained in betterments statement of the Michigan Central (Exs. 2 and 3, May 23, 1904, Record pp. 4730 to 4843); I think they should be added to determine the true earnings of the property; whether they should be added to determine the value of the property, depends on how the charge to operating expense of so large an amount of improvements is allowed to influence application of the method as affecting rate; quite likely the public estimate of the Michigan Central property would be different if it had not been improved out of net earnings; it is desirable in application of my theory to know the property's true net earnings; in D. S. S. & A. raised the earnings beyond those stated.

In assessing property, it is desired to get true cash value relatively as well as actually, and it is not possible to ignore different conditions of accounts of different roads; the tendency of covering into operating expenses certain improvements, is growing and is known to purchasers of railway property, that being so, something of an adjustment must take place in the mind of the appraiser, before he decides on capitalization rates; where there is net corporate surplus above the annuity, my theory amounts to a capitalization of net earnings; where I found the report creditable and gave what I would concede to be a true statement of net earnings, that was adopted.

The rate of capitalization on Michigan Central was not a matter of individual judgment, but was the rate which purchasers of Michigan Central (and that class) of securities indicated to be proper by the price offered.

If I said I reduced the rate from what a study of market would show, on account of the policy of the Michigan Central charging permanent improvements to operating expenses, it was by inadvertence; the market rate would have been higher if the Michigan Central had not been so prosperous as to enable it to put a million and a half into improvements out of earnings, that was one explanation of the low rate.

I kept to the market rate; it being governed by the market quotations. The importance of knowing how much had been charged to operating expenses, that should have been capitalized comes in when I endeavor to explain to myself the unusually low rate on this class of securities.

1160 The question was to what extent these low rates were fictitious and my study in detail of the Michigan Central accounts was to satisfy myself that the market quotations might judiciously and properly be accepted; there were two ways to recognize the policy of the Michigan Central in paying for permanent improvements out of operating expenses, either to allow the corporation smaller annuity or to capitalize the improvements.

My reason for taking average quotations for the year ending August 15, 1902 for all roads, is that in valuing a series of railroads as of a certain date, it seems to me that the same conditions, so far as they exist, should pertain to every railroad.

— In saying (on previous examination.)

"But the reason of the fact that you believed that in the operating expenses of the Michigan Central railroad, there are items which in fact paid for permanent improvements, you have allowed the corporation a smaller annuity upon its physical valuation than would otherwise have been the case?"

A. Yes, sir, it was either that or to capitalize the improvements."

I meant that in studying the conditions on the Michigan Central property, my attention was called to large amounts of permanent improvements charged to operating expenses; there were two ways of reflecting that in the valuation, I might have excluded the im-

improvements from operating expenses and added them to the net earnings.

I did not know the amount for 5 years, though might have found it out. Every person who values a property is obliged to rest his judgment on all information that has any bearing.

I think it is true that I allowed the Michigan Central a smaller annuity on account of improvements charged to operating expenses, as a different situation would have influenced the public mind differently, and there would have been different prices paid for securities. If I said (on previous examination) that charges of

1161 permanent improvements to operating expenses operated to reduce the rate of capitalization, I would like to revise thus :

Among things which explained the low market rate and justified my acceptance of its was the fact of permanent improvements paid out of operating expenses.

My study of the book-keeping of the company tended to corroborate the market reports; my line of reasoning is the Michigan Central has earned 9 to 12 per cent. on its capital, the stockholders are obliged to content themselves with 4 per cent., the difference goes into surplus and improvements; a different policy would have made a different rate and changed commercial conditions so the rate would have been modified; I probably said on previous examination that in the direct capitalization method, it would be necessary to normalize the net earnings of the Michigan Central before capitalization would be permitted.

You might accomplish the same result by reducing the rate. To find the normal net earnings I must have access to the details of operating expense account; the study of improvements was a study of general accounts and the operations of the road, as to whether the rate was reasonable; I did not intend to justify statement that there is a mathematical ratio between improvements and the rate of capitalization.

That bookkeeping had charged improvements to operating expenses, did not reduce rate below (it is not below) the stock market; in Michigan Central, I was not influenced by its bookkeeping; I would not care to leave the impression that if a study of market quotations appeared to me to give proper rate, I would not extend my investigation into the accounts; would not be willing to rest so important a question on any one thing; in the case of the Michigan Central I examined the market quotations, found the rate, investors were willing to receive as a net return on investment, relatively low and in looking for an explanation found about a million dollars a year had been spent for permanent improvements and charged to operating expenses, and was satisfied that this was an explanation of what I otherwise thought a low rate.

1162 After being convinced that market quotations were not abnormal but warranted by something done by the corporation the improvements charged to operating expenses were not further taken into formal consideration or made use of.

A million and a half dollars capitalized at 5 per cent., is \$30,000,000; a question presented was whether it was equity to capitalize the improvements to and increase value of Michigan Central by thirty millions; stock market quotations are influenced by the Michigan Central policy; after study, my judgment was that the value of the property should not be raised to the extent of capitalization of the value of the permanent improvements, and if there were to be any capitalization, the improvements should be capitalized according to kinds and sources; I came to the conclusion that equity would be attained by passing over improvements and using them wholly to explain low interest rate.

I made no further use of permanent improvements charged to operation, hence the value of the property is not adequately represented in my appraisal—in my opinion, I have it too low. Did not capitalize these improvements because I reached such an immense amount.

To the extent explained I was influenced in the rate of capitalization and specific factors of theory, by the result it was going to produce. The question of charging permanent improvements is bigger than the question of taxation, and the general policy of accounting and the effect of the method of taking out of current earnings a certain portion for improvements and betterments and public interests involved in that influenced me. I could not divest myself of the entire situation and I think you are right in saying I backed out from the extreme application of the principle laid down.

Had I discovered that the Michigan Central had not charged permanent improvements to operating expenses, I would not have raised the rate shown by market reports, am confident however, that the market quotations would have been higher.

If a million and a half of dollars had gone to the payment of dividends, I think the stock would have gone to \$250 or \$300. I did not know the average permanent improvements charged to operation for 5 years; had that become important, would have been obliged to curtail 5 to 3 year period.

To the extent to which charging of permanent improvements to operation might influence the estimate of purchasers the rate would be modified if I added to net earnings shown by company the full amount of average charged to operation, which should have been charged to permanent improvements; but I should make no formal modification of the rate.

If charging of permanent improvements (and extent) to operating expenses were unknown to the investor and in application of theory, I normalized net earnings, I should modify the rate of capitalization very slightly, if at all. I think the addition of that amount of earnings would require slight modification in the rate to equalize Michigan Central with other railway property.

The increase in the amount to be capitalized by this process would have influenced the market quotations to some extent and would justify a slight rise in rate; I agree with Prof. Johnson that, as a

principle it would be proper to use a higher rate for annuity and capitalization; the question of amount is entirely a different matter,—a matter of judgment. I have not normalized the Michigan Central earnings and figured the property's value on that basis.

Q. Let me see the document you read into the record this morning giving your reasons why the tax rate should not be added to the rate of capitalization?

Mr. KNAPPEN: That was given in a communication to me, it is really my communication and I don't know how literally he read from it; it was prepared by him entirely and it is not a document that anybody else could read.

1164 Mr. BUTTERFIELD:

Q. You decline to permit me to see it?

A. I am willing you should take it from the point where I commenced to read.

I said there was no evidence, that act 173 had impressed itself upon the value of Michigan railway property.

Do not wish to be understood as distinguishing between value for taxation and for other purposes, (unless problem involves one of relative value) there was no importance in Mr. Knappen's question or my answer, of words "for purpose of taxation."

The object throughout has been to obtain the true cash value and I have not distinguished between capitalization for purposes of taxation or any other purpose; if not proper to add the tax rate for current year to reach value for purpose of taxation, it would not be proper in any case where value was sought.

I can see how the problem of reaching the value of property would call for one method at one, and another at another time.

The purpose for which it was asked might make a difference; in 1900 I did not get the entire value; it was the object of the investigation to get near enough for instruction to the legislature in determining a certain question; have now been endeavoring to get the value of property for 1902 as an assessor would.

In 1900 we were called upon to value the property to enable a comparison; the problem did not require the careful attention which would be expected of one who values for assessment purpose.

My letter of transmittal in 1900 stated purpose of the valuation to be that of comparison; comparison assumed that general properties were assessed at 65 per cent. of their true cash value; I then made a computation which would equalize returns and enable the legislature to make a comparison.

Q. Then that answer involved did it not, the report by you of the true cash value?

Mr. KNAPPEN: I object to this inquiry first, because it is not proper cross examination on anything testified today, and second, because it has been gone over previously in the record.

1165 A. I don't know that it necessarily involved a statement of the property's value; I made no statement that the figures were less than true value of property.

In my letter, there was a statement which would suggest that the degree of accuracy required of an assessor was not followed; that was in regard to the rate, my value was arrived at on the basis of these rates; the question whether it was correct depended on whether tax commission agreed with the rate adopted, the increase of tax rate, and on whether I had adopted a proper rate for taxation in taking 1 per cent. I understood that to be an addition which would secure a figure equalizing the value of railroad with other property.

In adding the tax rate in 1900 I did exactly what I now condemn in the computation of Prof. Johnson.

1166 M. E. COOLIDGE, for defendant:

I have prepared a table, showing the proportion of the operating expenses, betterments and taxes to total earnings of the Michigan Central.

(Under objection of incompetent, irrelevant and not proper rebuttal.)

Taking the earnings and operating expenses from 1893 to 1902, from the reports of the company to the railroad commissioner, and betterments, from the schedule submitted to Prof. Johnson.

The data in columns 12, 13 and 14 of the table are from reports of the statistician of the Interstate Commerce Commission; 13 and 14 being averages. Group III of railroads embraces those roads in the Lower peninsula of Michigan, Ohio, Indiana, and north west portion of Pennsylvania.

The figures in columns 2, 3, 5, and 6 of the table are taken from the reports to the railroad commission, (those in column 6, with corrections); column 4, from the schedule of betterments; column 7 is a ratio of quantities in column 4 divided by those in column 2; column 8 is difference between the quantities in columns 6 and 7.

In column 9, the ratio of figures in column 5 divided by those in column 2; the figures in columns 10 and 11 are taken from figures in the other columns, (table offered in evidence, under objection of incompetent, irrelevant and not proper rebuttal. Exhibit 76, July 29, 1904. It is as follows:

Michigan Central Railroad Company.

Showing Proportion of Operating Expenses, Betterments, and Taxes to Total Earnings, July 9, 1904.

1.—Year ending December 31.	2.—Total earnings from operation.	3.—Total operating expenses, including taxes.	4.—Betterments charged to operating expenses.	5.—Taxes paid.	6.—Ratio operating expenses to earnings. Per cent.	7.—Betterments. Per cent.	8.—Operating expenses less betterments. Per cent.	9.—Taxes. Per cent.	10.—(Operating expenses less betterments and taxes. Per cent.	11.—Operating expenses less taxes. Per cent.	12.—M. C. Group III. Per cent.	13.—United States. Per cent.	Proportion of operating expenses to operating earnings, as shown by Interstate Commerce reports.
1893.....	\$16,178,030 99	\$12,287,792 35	\$1,285,152 55	\$340,875 12	75.95	7.95	68.00	2.11	65.89	73.84	74.76	71.84	67.82
1894.....	12,584,013 28	9,144,107 97	170,782 57	340,444 42	72.66	1.36	71.30	2.71	68.59	69.96	72.36	73.04	68.14
1895.....	13,651,420 61	10,183,231 31	320,749 15	302,498 89	74.59	2.36	72.23	2.22	70.01	72.37	70.03	70.84	67.48
1896.....	13,821,614 44	10,392,349 90	474,719 53	326,452 99	75.18	3.43	71.75	2.36	69.39	72.82	72.21	71.39	67.20
1897.....	13,697,239 31	10,249,510 32	351,430 65	330,316 71	74.83	2.56	72.27	2.41	69.86	72.42	72.26	71.29	67.06
1898.....	14,046,000 41	10,545,972 18	437,802 63	408,098 68	75.08	3.12	71.96	2.31	69.65	72.77	72.99	71.18	65.58
1899.....	15,508,582 22	12,004,116 71	1,063,192 67	426,693 02	77.40	6.85	70.55	2.75	67.80	74.65	72.47	70.53	65.24
1900.....	16,735,055 60	13,229,490 35	818,522 42	467,205 77	79.05	4.89	74.16	2.79	71.37	76.26	76.12	69.22	64.65
1901.....	18,490,273 65	14,745,963 96	1,407,052 01	508,132 90	79.75	7.61	72.14	2.75	69.39	77.00	76.85	69.47	64.86
1902.....	19,045,083 50	15,467,504 55	1,459,442 99	549,062 33	81.22	7.66	73.56	2.88	70.68	78.34	76.93	69.49	64.66

Prepared a table from the reports of the Lake Shore & Michigan Southern to the railroad commissioner, comparing its earnings with its operating expenses.

I have also given the proportion of the Michigan mileage to the mileage of the system, the figures being taken from reports of Lake Shore to railroad commissioner and State board of assessors; the figures from the different sources differ only in classification of track, *i. e.* those from the report to the State board of assessors eliminating branches and spurs.

The figures are correctly taken from the reports, and the computations correctly made. (Table offered in evidence, Exhibit 77, July 29, 1904, under objection of incompetent, irrelevant and not proper rebuttal.)

1. Year.	2. Reported income from earnings, en- tire system.	3. Reported income from other sources, entire system.	4. Reported total in- come, entire system.	5. Income from earn- ings assigned to Michigan.	6. Reported total oper- ating expenses, en- tire system.	7. Operating expenses assigned to Michi- gan.
1898.....	\$28,667,327 30	\$346,859 85	\$21,044,137 15	\$2,019,002 09	\$13,871,602 09	\$1,750,046 31
1899.....	23,381,242 92	376,051 75	23,757,294 67	2,199,002 35	15,560,441 57	1,844,169 46
1900.....	27,004,809 09	749,520 76	27,754,329 85	2,379,704 61	17,371,447 53	1,752,705 83
1901.....	25,789,445 61	1,229,280 09	31,113,725 30	2,321,199 99	20,184,305 51	2,221,064 97
1902.....	30,954,832 32	1,608,264 56	32,523,416 86	2,605,027 16	21,596,299 02	2,261,321 21
Average.....	\$26,364,935 45	\$664,067 32	\$27,559,002 77	\$2,314,931 41	\$17,783,471 46	\$1,985,321 56

Year.	8. Total net in- come, en- tire system.	9. Net earnings assigned to Michigan. Col. 5—col. 7.	10. Ratio of operating expenses to earn- ings, entire system. Col. 6 ÷ by col. 2.	11. Ratio of operating expenses to earn- ings in Michigan. Col. 7 ÷ by col. 5.	12. Ratio of total earn- ings—Michigan to entire system. Col. 5 ÷ by col. 4.	13. Ratio of net earn- ings—Michigan to entire system. Col. 9, col. 8.	14. Ratio of per cent. of operating expen- ses—Michigan to entire system. Col. 11. Col. 10.
1898.....	\$7,172,473 46	\$509,616 78	67.01	86.65	9.60	3.76	1.39
1899.....	6,115,413 15	354,432 89	67.72	83.89	9.36	3.51	1.38
1900.....	10,482,282 33	577,738 79	63.95	73.91	7.62	1.27	1.17
1901.....	10,831,292 79	144,135 12	67.37	93.78	8.14	2.74	1.38
1902.....	10,653,117 86	291,705 95	71.04	89.60	8.14	2.74	1.26
Average.....	\$9,415,531 31	\$328,400 88	67.45	85.82	8.49	3.47	1.27

The report to the comm. of railroads, 1902, gives the total mileage operated..... 1,411.16 } Percentage in Mich. equals 38.2

And mileage operated in Michigan..... 539.52 } Percentage in Mich. equals 38.2

The report to State board of assessors, 1902, gives total mileage operated as—

Single track..... 1,411.16 } Percentage in Mich. equals 42.9.

Branches and spurs..... 3,609 } Percentage in Mich. equals 42.9.

Total main track..... 1,090.67 } Percentage in Mich. equals 42.9.

Total mileage operated in Michigan..... 539.52 } Percentage in Mich. equals 42.9.

Branches and spurs..... 71.61 } Percentage in Mich. equals 42.9.

Total main track in Michigan..... 467.91 } Percentage in Mich. equals 42.9.

1 Record \$209 to \$313, testimony Cooley, refer to physical value railroad properties, found volume II. this abstract.

1168 I have no personal knowledge of the facts on which the Interstate Commerce Commission's statistics are based, or whether the accounts are properly kept.

Redirect examination.

The Interstate Commerce Commission's reports and statistics are standard publications, recognized as authority on the subjects covered.

(Objection of incompetent.)

1169 T. H. HINCHMAN, recalled for the defendant.

I have prepared tables from the Interstate Commerce Commission's statistics, showing repairs and renewals of locomotives, passenger and freight cars, and from the Michigan Central's reports to railroad commissioner, repairs and renewals of locomotives, passenger and freight cars.

(Subject to objection incompetent, irrelevant and not proper rebuttal.)

The Interstate Commerce Commission's statistics give summary of operating expenses, in which there are items of repairs and renewals of locomotives, passenger cars and freight cars, also the total numbers of locomotives, passenger and freight cars of the reporting roads of the United States.

By dividing the amount stated for repairs and renewals of any class of equipment by the amount of equipment, we obtain the cost per single item, the data of the Michigan Central in its report to the railroad commissioner has been abstracted in the same manner.

The computations made are correct to the last figure; the work of division being done by a slide rule; the data is in the table to check computation.

The results on Michigan Central locomotives were figured mathematically. (Tables offered in evidence, subject to objection incompetent, irrelevant and not proper rebuttal. Exhibits 78, 79, July 29, 1904.)

They are as follows:

Table showing repairs and renewals of locomotives, passenger cars and freight cars in the United States, abstracted from summary showing classification of operating expenses for years ending June 30, 1895, '6, '7, '8, '9, 1900, '1, '2, and also the number of locomotives, passenger cars and freight cars in the United States, abstracted from the summary of equipment found in the statistics of railways in the United States, published by the Interstate Commerce Commission. From these data the repairs and renewals per locomotive and per car is shown for the several years for all the equipment in the United States covered by the table.

Locomotives.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per locomotive.
1902.....	41,225	\$80,743,067 00	\$1,960 00
1901.....	39,584	66,253,484 00	1,675 00
1900.....	37,663	62,156,551 00	1,650 00
1899.....	36,703	50,552,264 00	1,378 00
1898.....	36,234	45,119,953 00	1,244 00
1897.....	35,986	39,214,355 00	1,091 00
1896.....	35,950	43,150,823 00	1,200 00
1895.....	35,699	38,218,439 00	1,071 00
Average.....			\$1,409 00

Passenger Cars.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per car.
1902.....	36,987	\$24,029,894 00	\$650 00
1901.....	35,969	22,532,985 00	627 00
1900.....	34,713	20,872,659 00	602 00
1899.....	33,850	17,623,124 00	520 00
1898.....	33,595	16,760,825 00	498 00
1897.....	33,626	15,683,740 00	467 00
1896.....	33,003	15,990,268 00	484 00
1895.....	33,112	14,927,860 00	451 00
Average.....			\$538 00

Freight Cars.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per car.
1902.....	1,546,101	\$82,812,888 00	\$53 60
1901.....	1,464,328	73,595,935 00	50 20
1900.....	1,365,531	70,989,353 00	52 00
1899.....	1,295,510	57,320,521 00	44 20
1898.....	1,248,826	55,248,327 00	44 30
1897.....	1,221,730	44,165,087 00	36 20
1896.....	1,221,887	51,910,309 00	42 50
1895.....	1,196,119	40,561,700 00	33 90
Average.....			\$44 60

1171 Table of Repairs and Renewals of Locomotives from Reports of Michigan Central Railroad to the Commissioner of Railroads.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per locomotive.
1902.....	461	\$939,459 00	\$2,038 00
1901.....	461	1,364,611 00	2,960 00
1900.....	461	1,016,337 00	2,205 00
1899.....	461	581,738 00	1,262 00
1898.....	461	476,458 00	1,034 00
1897.....	461	440,237 00	955 00
1896.....	461	484,084 00	1,050 00
1895.....	461	378,515 00	821 00
Average			\$1,541 00

Table of Repairs and Renewals of Passenger Cars from Reports of M. C. R. R. Co. to the Commissioner of Railroads.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per car.
1902.....	390	\$197,619 00	\$507 00
1901.....	386	250,552 00	650 00
1900.....	386	233,580 00	604 00
1899.....	373	161,982 00	432 00
1898.....	373	168,558 00	452 00
1897.....	372	157,416 00	424 00
1896.....	372	208,939 00	563 00
1895.....	369	190,793 00	517 00
Average			\$518 00

Table of Repairs and Renewals of Freight Cars from Reports of M. C. R. R. to the Commissioner of Railroads.

Year.	Number.	Total repairs and renewals.	Repairs and renewals per car.
1902.....	13,544	\$966,478 00	\$71 30
1901.....	14,123	919,699 00	65 00
1900.....	14,174	946,324 00	66 80
1899.....	14,134	1,223,958 00	86 40
1898.....	13,278	713,558 00	53 70
1897.....	13,103	674,520 00	51 85
1896.....	13,024	688,720 00	52 90
1895.....	12,841	648,396 00	50 50
Average			\$62 30

Cross-examination—Mr. BUTTERFIELD :

I do not know whether railroad companies included in the account for repairs of locomotives and other equipment all items the Interstate Commerce Commission recommended.

1172 JAMES WALKER, recalled for defendant.

I compiled the volumes marked "Railroads of Michigan, Compilation of Statistics from Poor's Manual of Railroads, 1890-1901" and "Michigan Railroads, Compilation from Interstate Commerce Reports, 1890-1902, March, 1904;" (Exs. 2 and 3, April 5, 1904) the computation was accurately made from the sources indicated on the respective volumes and represent results correctly.

(Mr. BUTTERFIELD : We renew our objections to these books.)

The book marked "Railroads of Michigan, Compilation of Operating and Traffic Statistics," (Ex. 4, April 5, 1904) was compiled by Mr. Thompson, at my request. I have used a majority of the figures in the book, and in using, compared those used, and found them correct.

1173 W. M. THOMPSON, recalled for defendant.

I prepared the portion of volume "Railroads of Michigan, Compilation of Operation and Traffic Statistics," (Ex. 4, April 5, 1904) relating to Operating statistics of the Michigan Central and Pere Marquette. The entire compilation was prepared under my supervision, and the figures were compared back and verified by myself and other clerks. In using it, I have made personal verification, and have found it correct.

1174 The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

Michigan Railroad Tax Cases.

PERE MARQUETTE RAILROAD Co., Complainant,

vs.

PERRY F. POWERS, Auditor General, Defendant.

DETROIT & MACKINAC RAILROAD Co., Complainant,

vs.

PERRY F. POWERS, Auditor General, Defendant.

CHICAGO & NORTHWESTERN RAILWAY Co., Complainant,

vs.

PERRY F. POWERS, Auditor General, Defendant.

TOLEDO, SAGINAW & MUSKEGON RAILWAY Co., Complainant,

vs.

PERRY F. POWERS, Auditor General, Defendant.

- MICHIGAN AIR LINE RAILWAY Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- GRAND TRUNK WESTERN RAILWAY Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- MICHIGAN CENTRAL RAILROAD Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- 1175 ANN ARBOR RAILROAD Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- CINCINNATI, SAGINAW & MACKINAW RAILROAD Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- CHICAGO, DETROIT AND CANADA GRAND TRUNK JUNCTION RAIL-
road Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- MUNISING RAILWAY Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- LAKE SUPERIOR & ISHPEMING RAILWAY COMPANY, Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- MARQUETTE & SOUTHEASTERN RAILWAY Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- CHICAGO, MILWAUKEE & ST. PAUL RAILWAY Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- MINERAL RANGE RAILROAD Co., Complainant,
vs.
PERRY F. POWERS, Auditor General, Defendant. }
- PONTIAC, OXFORD & NORTHERN RAILROAD Co.,
vs.
PERRY F. POWERS, Auditor General, Defendant. }

1176	MINNEAPOLIS, ST. PAUL & SAULT, STE. MARIE RAILWAY Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	
	COPPER RANGE RAILROAD Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	
	GOGEBIC & MONTREAL RIVER RAILROAD Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	
	MANISTEE & NORTHEASTERN RAILROAD Co., Complainant,	}
	vs. PERRY P. POWERS, Auditor General, Defendant.	
	ESCANABA & LAKE SUPERIOR RAILROAD Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	
	GRAND RAPIDS & INDIANA RAILWAY Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	
	WISCONSIN & MICHIGAN RAILWAY Co., Complainant,	}
	vs. PERRY F. POWERS, Auditor General, Defendant.	

Until the legislation complained of in these cases, railroad corporations, express companies, car loaning companies, etc., were taxed in the State of Michigan specifically upon their gross earnings. For the purpose of enabling the legislature to pass an act for their taxation by an ad valorem system of assessment, placing their property, for that purpose, upon the same basis with that of other corporations and individuals throughout the State, the constitution was

1177 amended in 1900. The amendment permitted the legislature to provide for the assessment of the property of corporations at its true cash value by a State board of assessors, and provided for an uniform rule of taxation for such property, and that the rate of taxation on such property should be the rate which the State board of assessors should ascertain and determine as the average rate levied upon other property on which ad valorem taxes are assessed for State, township, county, school and municipal purposes.

At the next session of the legislature, in 1901, act No. 173 was passed, which is entitled, "An act to provide for the assessment of the property of railroad companies, union station and depot companies, express companies, car loaning companies, stock car companies, refrigerator car companies and fast freight line companies ;

and for the levying of taxes thereon by the State board of assessors, and for the collection of such taxes:" under the provisions of which act the companies affected were required to make reports to the State board of assessors, which board was required to prepare an assessment roll and assess the property of such corporations, the property of the several corporations being described thereon by a general statutory description, which in the case of the railroad companies was required to be "real estate, rolling stock, right of way and appurtenances thereto, and all other property used in carrying on the corporate business, and subject to taxation by the State board of assessors."

In determining the true cash value of the property of the railroad companies it is provided that the board should be guided by the relation which the number of miles of main track within the State of Michigan bears to the entire mileage of the main track of said companies, both within and without the State.

After the completion of such roll the board of assessors is required to meet at the State capitol at Lansing on the third Monday of December of each year, and continue in session from day to day for so long a period as may be necessary, not later than the fifteenth day of January next thereafter, for the purpose of reviewing their assessment; and any company or persons interested shall have the right to appear during such period and be heard as to the valuation of the property of any such company, and the State board of assessors on such application, or on its own motion, is given authority to correct the assessment or valuation of the property of such company, in such manner as will, in its judgment, make the valuation thereof just and equal. It is made the duty of the clerk of the board of supervisors in each county in the State, not later than the first day of November in each year, to report to said board the equalization made by the board of supervisors of the assessment rolls of the several townships therein, which report shall contain a statement of the amount of ad valorem taxes to be raised in the several municipalities in such county for State, county, township, municipal, school and other purposes, and a statement of the correct valuation of the property in each of said municipalities, as taken from the assessment rolls of said municipalities for the year in which such equalization is made. It is made the duty of the supervisor, or other assessing officer of cities and villages, governed by special charters which provide for the collection of ad valorem taxes, which are not reported to the board of supervisors for the purpose of equalization or review, and the supervisors or other assessing officers of cities organized under general laws, to make within said time a report to said board of all ad valorem taxes, raised in any of such municipalities, which have not been reported to the State board of assessors for the purpose of equalization and review. The act further provides, in section twelve, that after the receipt of such report, and not later than the fifteenth day of December in each year, the State board of assessors shall ascertain and determine the

average rate of taxation of the then current year, levied upon other property upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes, and shall enter the same upon its record forthwith, together with the method by which such average rate was ascertained and determined.

The board is required to tax the property of the several companies as assessed by it, at the rate as determined, and the amount of the taxes is to be extended, upon the assessment roll, opposite the description of the respective companies' properties. The taxes so extended are made a debt owing from the companies, and become a lien upon all of the property, real, personal and mixed, of said companies from the time of extension until payment, which lien may be enforced by seizure and sale of the property, or so much thereof as is necessary to satisfy the same.

The board is required to annex to its roll its warrant, commanding the auditor general to collect said sums, which warrant is authority, in case of the neglect or refusal of any company to pay its tax, for levying on the same by distress, and sale of the property of the corporation.

All taxes collected under the act are to be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the State debt in the order recited, until the extinguishment of the State debt other than the amounts due to educational funds, when such taxes shall be added to and constitute a part of the primary school interest fund.

The State board of assessors proceeded under the act for the collection of the taxes for the year 1902, assessing the property of the companies at what they believed to be its true cash value. Acting under the provisions of section twelve of the act, to ascertain and determine the average rate of taxation for the year 1902 levied upon other property upon which ad valorem taxes were assessed for State, county, township, school and municipal purposes, they believed it to be their duty to determine whether such other property had been assessed at its true cash value, and proceeded accordingly and did ascertain and determine that such property had not been assessed by the assessors thereof at its true cash value, but that it had been assessed at a sum greatly less than its true cash value, and determined the true cash value of such property to be the sum of \$1,715,000,000, making thereby the amount of the assessed valuation of said property as determined by them greater than the amount of

valuation as assessed by the local assessors, as shown by the reports made to said board by the clerks of the boards of supervisors, and by such determination the board ascertained and determined the rate of taxation to be levied upon the properties of said companies to be \$13.68905 per thousand dollars of the assessed valuation thereof, and levied said rate of taxation upon the property of said companies. The tax roll made upon that basis, with the proper warrant of the board, was delivered to the auditor general for collection.

Thereupon application was made to the supreme court of the State, by the board of education of the city of Detroit, for a writ of mandamus to said State board of assessors, to require them to re-determine the rate of taxation to be levied upon the property of said companies, by taking for such determination, the assessed value of the other property as the same had been made by the local assessors. The supreme court granted the writ of mandamus, holding that under the provisions of said act 173, the State board of assessors had no authority to thus equalize the assessment of said other property, and that their duty in determining the rate of taxation to be levied upon the property of said companies was to take the valuation of said other property at the assessment made thereof by the local assessors. *Board of Education vs. State Board of Assessors*, 133 Mich., 116.

Acting under the direction of the supreme court, the State board of assessors re-determined the rate of taxation levied upon said other property for State, county, township, school and municipal purposes on the basis of the said assessment of said property made by the local assessors, and thereby made the rate of taxation to be levied upon the property of said companies \$16.55329 per thousand dollars upon the said assessed valuation thereof. For such tax a new assessment roll was made by said board, with its proper warrant annexed thereto for the collection of said tax, and delivered to the auditor general.

To stay the collection of those taxes these suits are brought, in which complainants allege that the general properties of the State other than railroad property, upon which taxes were assessed 1181 for State, county, township, school and municipal purposes, were assessed at less than the true and actual cash value and at about eighty-two per cent. thereof; that unincorporated persons, associations, partnerships and joint stock associations possess and operate railroads in Michigan and own property similar in character and engaged in the same business and owned under the same circumstances as the railroad property of the complainants; that railroad companies, among whom were some of the complainants, operate sleeping cars, and that sleeping cars were also operated by corporations or institutions independent of railroads; that interurban and street railways and their property are engaged in the same business as complainants.

The defendant filed answers to the bills of complaint which deny all statements setting up the unconstitutionality and invalidity of the constitutional amendments and act 173 of 1901 and the system of taxation invoked thereby, and in addition set forth in denial of allegations of the bills, that the general properties of the State, upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes, were not assessed at less than their true and actual cash value, but were, for 1902, presumptively, conclusively and actually assessed at their true and actual cash value, and further setting forth that the properties of the complainant companies, as assessed by the State board of assessors, pursuant to act 173 for the year 1902, were assessed at much less than the true and

actual cash value thereof. The answers also denied the allegations of the bills in regard to sleeping car companies, and interurban and street railway companies, and as to railroad and similar property to that owned and operated by complainants, being owned by unincorporated persons or institutions not subject to taxation under act 173.

The objections interposed by the complainants to the system of taxation of railroads invoked by the constitution and statute, as stated in their bills of complaint, are that it violates:

(a.) The 14th amendment to the Federal Constitution, in that:

1182 (1.) The selection of the corporation subject to taxation by a State board of assessors by said act, is arbitrary, not based on material and inherent differences in the corporations taxed or their property from other corporations and property, and does not constitute proper classification for purposes of taxation.

(2.) While individuals and corporations generally are entitled under the general laws of the State to have their *bona fide* debts deducted from their credits, no such provision exists and no such deduction is allowed in the case of complainants.

(3.) A higher rate of taxation is imposed on the property of complainants than upon the property of other corporations and persons claimed to be similarly situated.

(4.) The rate of taxation to which complainants are subject is dependent on the action of local officers, over whom complainants have no control, before whom they cannot be heard, and whose action they have no right to have reviewed in the courts, or otherwise.

(5.) The rate is fixed without legislative judgment as to the need of the funds benefited, by the tax, in any year.

(6.) The act operates to impose a tax upon the property of complainants situate in other States.

(7.) No opportunity is given complainants for a hearing upon the determination of the State board of assessors in fixing the average rate.

(8.) By neglecting to provide for equalization of the property of corporations taxed under act 173 with other property of the State, the 14th amendment of the Federal Constitution is violated, and equal protection of the laws denied.

(9.) As complainants had no notice of, or opportunity to be heard upon, the re-determination of the average rate, in the preparation of the duplicate assessment roll and the spreading of the tax thereon, due process of law was denied.

(10.) The constitutional provision and statute deprive complainants of their property without due process of law.

(11.) In requiring other tax laws to state distinctly the tax and its object, and not making a similar requirement as to acts
1183 providing for the taxation of corporations by a State board of assessors, discrimination results.

(12.) In that every other law which imposes a tax on property in

the State of other corporations, companies, associations and persons, is required to state distinctly such tax and its object, while act 173 does not state distinctly the tax it imposes.

(13.) By reason of the fact that the other property of the State, subject to ad valorem assessment for taxation for State, county, township, school and municipal purposes, the average rate imposed upon which throughout the State is determined by the State board of assessors by mathematical computation by dividing the aggregate amount of taxes levied and raised for the purposes enumerated by the aggregate assessed valuation of such other property, at which average rate taxes are levied upon the assessed value of the property of complainants as fixed by the State board of assessors, is not assessed at its true and actual cash value, but at only about eighty-two per cent. thereof, while the property of complainants is assessed at its true and actual cash value, a discrimination results against complainants.

(b.) That it violates section eight of article I of the United States Constitution in attempting to regulate commerce among the several States.

(c.) That it violates section four of article IV of the United States Constitution, guaranteeing to every State a republican form of government.

(d.) That act 173 violates sections ten and eleven of article XIV of the Michigan constitution :

(1.) In that the selection of the corporations subjected to taxation by a State board of assessors by said act is arbitrary, is not based on material and inherent differences in the corporations taxed or their property from other corporations and property, and does not constitute proper classification for purposes of taxation.

(2.) In not giving complainants a hearing on the question of the rate of taxation to be imposed upon their property.

1184 (3.) In including within its provisions the property of the corporations named in the act, to the exclusion of all other corporations in the State.

(4.) In not providing a rule of taxation uniform, except on property paying specific taxes, by not permitting the deduction of complainants' debts from their credits, while permitting that deduction to other property owners.

(5.) In that if act 173 is susceptible of the inclusion of highway taxes in the dividend in reaching the average rate, it violates section eleven of article XIV.

(e.) That act 173 violates the provisions of section thirty-two of article IV of the Michigan constitution, in giving no right of hearing to complainants upon the question of the rate of taxation to be imposed upon their property.

(f.) That act 173 violates the provisions of section twelve of article XIV of the Michigan constitution requiring all assessments to be on property at its cash value, in not permitting the corporations taxed

thereunder to deduct their debts from their credits, as permitted to property owners generally.

(g.) Said act violates section fourteen of article XIV providing that every law which imposes, continues or revives a tax shall distinctly state the tax and the objects to which it is to be applied, and that it shall not be sufficient to refer to any other law to fix such tax or object.

(h.) That act 173 is repugnant to the Michigan constitution in authorizing the imposition of taxes upon complainants without the exercise of legislative judgment on the rate of taxation to be imposed, or the need of the State of the amount of money required for the purposes to which the proceeds of said tax are to be devoted.

(i.) That the board of assessors in reaching the average rate included in the dividend taxes for other than State, county, township, school and municipal purposes.

WANTY, district judge, after making the foregoing statement, delivered the opinion of the court :

The defendant objects to any consideration of these cases, because he says they are brought to restrain the collection of taxes levied by the State of Michigan and, although brought against him 1185 as auditor general, they are in effect suits against the State, in which the court has no jurisdiction.

The jurisdiction of the court to restrain the collection of taxes, where the bill in good faith alleges that the constitution and statute of Michigan, under which the tax in question was levied, are repugnant to the Constitution of the United States; and that the defendant, who is the auditor general, by his acts under that constitution and statute, which, it is claimed, deny to the complainants the equal protection of the laws, is about to deprive the complainants of their property without due process of law, could hardly be seriously questioned, after the repeated declarations of the supreme court, either on the ground that the suit is against the State or on the ground that a Federal question is not involved.

Pennoyer vs. McConnaughy, 140 U. S., 1-10.

In re Tyler, 149 U. S., 164-190.

Scott vs. Donald, 165 U. S., 58-68.

Tindall vs. Wesley, 167 U. S., 204-220.

Smyth vs. Ames, 169 U. S., 466.

Prout vs. Starr, 188 U. S., 537-542-543.

But, it is seriously contended by the defendant that, if the Federal questions which are raised by the bills, which it is conceded are not fictitious, and which gave the court jurisdiction, are decided against the complainants, although the court had jurisdiction to dispose of these questions its jurisdiction immediately ceases, and it may not decide the question of the undervaluation of the property of the State which is not taxed under the statute in question when compared

with the valuation placed upon the property of the complainants, which is so taxed.

Of course, if the claim that the constitution and statute of the State violate the Constitution of the United States is fictitious and fraudulent the circuit court of the United States could not acquire jurisdiction, but, if that claim is real, and the court acquires jurisdiction it does not lose it because its decision on that question is against the complainants' contention. If this were not so, all bills for injunction,

in which the jurisdiction of the Federal court is invoked on
1186 account of a statute or constitution of a State contravening the provisions of the Federal Constitution, should be disposed of without putting the parties to the expense of taking testimony, because no testimony could possibly be considered. If it were found that the contention of the complainant was well founded, then an injunction would follow as a matter of course, and if it were found that the constitution or statute did not violate the provisions of the Federal Constitution, the jurisdiction of the court would immediately determine, and the bill be dismissed. If that contention is well founded then in these cases two years of time, and many thousands of dollars spent in taking testimony should have been avoided.

But we cannot assent to this view. If the court actually acquires jurisdiction, that jurisdiction, although acquired because the constitution or law of a State is claimed to be in contravention to the Constitution of the United States, extends to all questions involved in the controversy, and not merely to the question of the violation of the Federal Constitution. Jurisdiction of a Federal court having been properly invoked for relief against assessments as discriminating against complainant, and thus depriving it of the equal protection of the laws under the fourteenth amendment, where the complainant fails to show discrimination the bill may be retained to administer relief on other grounds, although the State court could afford adequate remedy. This was held in *Louisville Trust Company vs. Stone*, 107 Fed. 305, where Justice Day, in delivering the opinion of the circuit court of appeals of this circuit, cites with approval the case of *Nashville, etc., Railway Company vs. Taylor*, 86 Fed. 168, in which the grounds of Federal jurisdiction are carefully examined and fully stated in an able opinion by Judge Clark.

Where the Supreme Court of the United States acquires jurisdiction on appeal from this court only because a law of a State is claimed to be in contravention of the Constitution of the United States, the appeal is not dismissed because the Supreme Court decides that the claim of the Federal question involved is not
1187 well founded. If the claim is real, and is made in good faith, then the Supreme Court acquires jurisdiction of the entire case, and of all questions involved in it.

In the case of *Horner vs. United States*, 143 U. S., 570-576-577, the court said: "We are further of opinion that where an appeal or writ of error is taken direct to this court under section five of the act

of March 3, 1891, in a case in which the constitutionality of a law of the United States is drawn in question, this court acquires jurisdiction of the entire case, and of all questions involved in it, and not merely of the question of the constitutionality of the law of the United States. This is shown by the fact that, under section five, where an appeal or writ of error is taken direct to this court, in a case in which the jurisdiction of the district court or of the circuit court is in issue, it is specifically directed that the question of jurisdiction alone shall be certified to the Supreme Court from the court below for decision, but there is no kindred limitation prescribed in regard to any of the other cases in which jurisdiction in this court of appeals or writs of error is given by section five."

In *Penn Mutual Life Insurance Company vs. Austin*, 168 U. S., 685-695, Mr. Justice White, delivering the opinion of the court, said: "But the words of the statute, which empower this court to review directly the action of the circuit court, are that such power shall exist wherever it is claimed on the record that a law of a State is in contravention of the Federal Constitution. Of course, the claim must be real and colorable, not fictitious and fraudulent.

The contention here made, however, is, not that the bill, without color of right, alleges that the State law and city ordinances violate the Constitution of the United States, but that such claim as alleged in the bill is legally unsound. The argument, then, in effect, is that the right to a direct appeal to this court does not exist where it is claimed that a State law violates the Constitution of the United States, unless the claim be well founded. But it cannot be decided whether the claim is meritorious and should be maintained without taking jurisdiction of the case. The authorities referred to as supporting the position indicate that the argument is the result

1188 of a confusion of thought, and that it arises from confounding the power of this court to review on a writ of error the action of a State court with the power exercised by this court, under the act of 1891, to review by direct appeal the final action of the circuit court where, on the face of the record, it appears that the claim was made that the statute of a State contravened the Constitution of the United States. These classes of jurisdiction are distinct in their nature, and are embraced in different statutory provisions. Having jurisdiction of the cause, there exists the power to consider every question arising on the record."

The case of *Coulter vs. Louisville & Nashville R. R. Co.*, decided by the Supreme Court of the United States February 20, 1905, and not yet reported, was a bill brought by a Kentucky railroad corporation against the members of the State board of valuation and assessment of Kentucky, and the only ground of jurisdiction alleged was that under the laws of the State of Kentucky, as administered by its executive officers, the railroad company was deprived of the equal protection of the laws, contrary to the fourteenth amendment to the Federal Constitution, because all property not exempt from taxation was required to be assessed at its fair cash value, and the

assessing officers assessed a great deal of the tangible property in the State below its cash value, and the complainants' railroad property was assessed at its full value. After deciding the Federal question, which gave the court below jurisdiction, adversely to the complainants' contention, the court then examined the evidence, and decided the question of fact involved in the case on its merits, saying that "as the claim of right under the United States Constitution was not merely colorable, and as the evidence is here, we have considered the evidence also, and our conclusion from that as well as from the law is that the bill must be dismissed."

The objection of complainants to the amendment of the Michigan constitution and the statute under which the taxes in these cases were levied are repeated in different forms in the bills of complaint, but may be grouped under a few heads, and those serious 1189 and important questions thereby raised and which were argued in the briefs of counsel, and orally at the bar, we will examine. In examining and deciding each of these questions we shall not at any time forget that the taxing power of a State is necessary to its existence, and being one of its attributes of sovereignty a statute passed for the levy and collection of its revenue must not be held void by a Federal court unless it is so clearly an illegal encroachment upon private rights as to leave no doubt of its invalidity.

The complainants claim that the provision of the fourteenth amendment to the Constitution of the United States, forbidding the State to deprive any person of his property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, is violated by the amendment to the constitution of the State of Michigan and the statute made in pursuance thereof, under which the taxes in question in these cases were levied. As has been many times said by the Supreme Court, it was undoubtedly intended by the fourteenth amendment that no State should arbitrarily deprive any person of his property, and that equal protection and security should be given to all under like circumstances. No rule can be stated which will cover all cases, but the law must give the same protection to all persons in like condition, and impose no greater burden upon one than it does upon all others under similar circumstances. This protection extends to discrimination in laws for the levy and collection of taxes as well as to all other legislation of a State, but perfect equality and uniformity in taxation is unknown, and an effort to obtain it as near as possible is the most that legislative wisdom can accomplish.

There can at this time be no question, after the frequent and uniform expressions of the Federal Supreme Court, that it was not designed by the fourteenth amendment to the Constitution to prevent a State from changing its system of taxation in all proper and reasonable ways, not to compel the States to adopt an iron rule of equality, to prevent the classification of property for purposes of taxation, or the imposition of different rates upon different classes,

1190 It is enough that there is no discrimination in favor of one as against another of the same class, and the method for the assessment and collection of the tax is not inconsistent with natural justice.

Bell's Gap R. R. Co. *vs.* Penna., 134 U. S. 232 ;
 Giozza *vs.* Tierman, 148 U. S. 657-662 ;
 Adams Express Co. *vs.* Ohio, 165 U. S. 194-228 ;
 Magoun *vs.* Illinois Trust & Savings Bank, 170 U. S. 283 ;
 Billings *vs.* Illinois, 188 U. S. 97 ;
 Merchants & M. Bank *vs.* Pennsylvania, 167 U. S. 461 ;
 Kentucky Railroad Tax Cases, 115 U. S. 321 ;
 Home Insurance Co. *vs.* New York State, 134 U. S. 594 ;
 Gulf, etc., Ry. Co. *vs.* Ellis, 165 U. S. 150 ;
 Clark *vs.* Titusville, 184 U. S. 329 ;
 American Sugar Refining Co. *vs.* Louisiana, 179 U. S. 89 ;
 New York State *vs.* Barker, 179 U. S. 279.
 Charlotte, etc., R. R. Co. *vs.* Gibbes, 142 U. S. 386 ;
 Travelers' Ins. Co. *vs.* Conn., 185 U. S. 364 ;
 Kidd *vs.* Alabama, 188 U. S. 730 ;
 Turpin *vs.* Lemon, 187 U. S. 51 ;
 Florida, etc., R. R. Co. *vs.* Reynolds, 183 U. S. 471.

It is urged by complainants that due process of law requires in taxation that the tax be levied by a legislative body, which is chosen by and acts for the community that includes the person or contains the property taxed, which is not provided for by the amendment to the Michigan constitution nor the statute under consideration. That a protection is furnished to other taxpayers of the State by the laws which provide a legislative determination or judgment of the amount of taxes which ought to be imposed upon them, which determination or judgment is formed upon the consideration of the needs of the State, or of the municipality, for which the taxes imposed are to be devoted, and the amount of the taxation required to provide for such needs, while such protection is withheld from the companies subjected to taxation under the act in question. That the determination of the amount of taxes to be raised in any case or for any purpose is a legislative determination, that taxes for State purposes are determined by the legislature, taxes for municipal purposes are determined by the boards, officials or assembly upon whom is conferred, by the State, the legislative power to decide for what purpose and in what amount taxes may be raised. That in 1191 every case it is a legislative determination made in view of the public interests, and of the amount of taxes required for those interests, and this legislative power is exercised by officers chosen by or answerable to those directly interested in the district to be taxed. That the taxes here levied upon the railroad companies are strictly State taxes, imposed for State purposes, yet the legislature does not determine the amount of the tax nor is it determined by any legislative action which considers the subject of

the tax. That the legislature directs the amount of the complainants' taxes to be determined by the various county, township, city, village and school district electors, boards, councils and officers, who, in their action by which the amount of the taxation of the railroads is determined, take no account, and can take no account, of the needs of the public in respect to the purposes to which the taxes are to be devoted. That the determination of the amount of the taxes to be paid by the railroad companies is not only arbitrary, but that it is the result of chance, arising out of conditions, circumstances and actions which have no relation whatever to the objects or purposes for which the taxes are imposed upon the railroad companies.

If this is the provision of the constitutional amendment and legislation of the State of Michigan under consideration in these cases there can be no doubt of its conflict with the fourteenth amendment of the Federal Constitution. Chief Justice Marshall said of the power of taxation, in *McCulloch vs. Maryland*, 4 Wheaton, 427, "The only security against the abuse of this power is found in the structure of the government itself. In imposing a tax the legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation;" and again, in *Providence Bank vs. Billings*, 4 Peters, 561, he said: "This vital power may be abused; but the Constitution of the United States was not intended to furnish the corrective for every abuse of power which may be committed by the State governments. The interest, wisdom and justice of the representative body and its relations with its constituents, furnish the only security, where there is no express contract against unjust and excessive taxation; as well as against unwise legislation generally."

This principle pervades our whole system, and has been reiterated in a multitude of judicial opinions in the Federal and State tribunals from the time of Marshall to the present. Let us look at the constitutional amendment and statute of the State against which this criticism is directed, and see what foundation there is for it. The constitutional amendment provides that the legislature shall provide a uniform rule of taxation for such property as shall be assessed by a State board of assessors, and the rate of taxation on such property shall be the rate which the State board of assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes. The rate is prescribed by the constitution and legislature to be the average rate levied upon other property upon which ad valorem taxes are assessed. The legislature may use any method to fix the rate so long as it does not delegate its legislative function, and if the rate had been fixed at any certain percentage, or the average rate assessed upon other property for any year preceding the enactment, no constitutional objection could be urged to it. As was said by the Federal Supreme Court, in *Delaware Railroad Tax Case*, 18 Wall., 206-231, "The State may

impose taxes upon the corporation as an entity existing under its laws, as well as upon the capital stock of the corporation or its separate corporate property. And the manner in which its value shall be assessed and the rate of taxation, however arbitrary or capricious, are mere matters of legislative discretion. It is not for us to suggest in any case that a more equitable mode of assessment or rate of taxation might be adopted than the one prescribed by the legislature of the State; our only concern is with the validity of the tax; all else lies beyond the domain of our jurisdiction." Then if the legislature had the absolute power to fix the rate what more equitable rate could it have adopted than the average rate paid by the other tax payers of the State? This seems not to have been a scheme to produce

1193 inequality, but a carefully devised scheme to distribute the burdens of taxation equally upon all tax payers. However, the character of the rate cannot be brought in question here. The only question is, Did the legislature fix it, or is it fixed by the determination of the various legislative bodies of the different taxing districts into which the State is divided? "A rate ascertained as the result of that which is enacted may be regarded as authorized by law, as well as a rate declared in terms." Morton Bliss & Co. vs. Comptroller General, 4 S. C. 477.

The local legislative bodies in determining the amounts to be raised by taxation in their respective jurisdictions, and the assessing boards in placing a valuation upon the property to be taxed, do not fix the rate, under this statute, to be paid by the complainants. They fix the rate to be paid by their several constituencies who appointed them and to whom they are responsible, and the State legislature, which is a body representing the complainants, fixes the rate at which the complainants are taxed to be the average rate placed on the other property of the State, which is ascertained by a mathematical calculation. The rates at which the respective communities are taxed are facts in the production of which the discretion of the officers and the needs of the various communities for which they act is certainly an element, but after the facts are produced the legislature may take them for its guide in fixing a rate, as it may take any other fact which moves its discretion. If the legislature were to convene each year after the assessments throughout the State had been levied, and should use the assessment rolls of the various assessing officers for the purpose of ascertaining the average rate levied upon other property upon which ad valorem taxes are assessed, and assess the property of complainants at that rate, there could be no constitutional objection to the tax, and yet the rate would be the same and it would be ascertained in exactly the same way, except that a committee of the legislature would do the clerical work of making the mathematical calculation, which under the statute we are considering is done by the State board of assessors. It seems clear that there is no discretion given to

1194 the State board of assessors in determining the rate at which the complainants' property is taxed under this statute, but

that they perform only a clerical duty in taking the facts evidenced by the various assessment rolls in ascertaining a rate which has been fixed by the constitution and legislature.

In *Home Life Ins. Co. vs. New York*, 134 U. S. 594-600, the court said: "The validity of the tax can in no way be dependent upon the mode which the State may deem fit to adopt in fixing the amount for any year which it will exact for the franchise. No constitutional objection lies in the way of a legislative body prescribing any mode of measurement to determine the amount it will charge for the privileges it bestows."

And in *Maine vs. Grand Trunk Ry. Co.*, 142 U. S. 217-229, the court said: "If the amount ascertained were specifically imposed as the tax, no objection to its validity would be pretended. And if the inquiry of the State as to the value of the privilege were limited to receipts of certain past years instead of the year in which the tax is collected, it is conceded that the validity of the tax would not be affected; and, if not, we do not see how a reference to the results of any other year could affect its character."

We do not think the method of determining the rate violates the fourteenth amendment to the Federal Constitution, because we think the rate is fixed by the Michigan constitution and legislature, and not by the local legislatures and assessing officers of the counties, cities, towns, villages and school districts of the State.

Taxation by average rate is not confined to Michigan.

See chap. 64 Public Statutes and Session Laws of New Hampshire, in force Jan. 1, 1901;

Revised Laws of Mass. (1902), vol. 1, chap. 12, sec. 93, p. 227; chap. 14, secs. 37-40;

Revised Statutes of Missouri (1899), vol. 2, pp. 2175-2176, secs. 9363-9364;

Laws of Wis. (1903), chap. 315, secs. 7 to 14, pp. 496 to 499.

In Missouri "the average rate levied in the several school districts" is imposed upon railroads, and it has been sustained
1195 as not violating the State or Federal Constitution, although the act requires the use, in determining the average rate, of taxes assessed in municipalities in which the railroad has no property. *Chicago & Alton R. R. Co. vs. Lambkin*, 97 Mo. 496.

It is urged that the equal protection of the laws is denied to the complainants because section fourteen of article XIV of the constitution of Michigan, which provides that "every law which imposes, continues or revises a tax shall distinctly state the tax and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object," protects all other tax payers except the companies taxed under the statute in question.

This section has been construed by the State supreme court in the case of *Walcott vs. The People*, 17th Michigan, 68-76, where the act taxing express companies was attacked as not in compliance with the section of the Michigan constitution above quoted. That statute

required the express company to pay into the treasury a specific State tax of one per cent. of the gross amount of its current business in the State. The court says: "It is provided by article XIV, sec. 1, const., that 'all specific State taxes, except those received from the mining companies of the Upper peninsula, shall be applied in paying the interest upon the primary school, university and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds, when such specific taxes shall be added to and constitute a part of the primary school interest fund.' It is apparent that the fundamental law has irrevocably prescribed the application of all such specific State taxes as that imposed by the act in question, and that the legislature could in no manner change the purpose or alter the destination of the tax. The application is not only unalterably fixed, but it is specifically defined, and nothing could be added by legislation but an idle repetition of the language of the constitution.

The statute distinctly describes the tax, and directs its payment into the State treasury, and the constitution then takes 1196 the subject from the sphere of legislative discretion, and decrees the uses to which the money must be appropriated. It inevitably follows, that by the conjoint operation of the statute and constitution, the object to which the tax would be applied is made most distinct and certain, and no language in the act could make it more so."

The constitution and statute here in question distinctly state that the educational fund referred to in section 1 of article XIV of the State constitution will need each year the amount to be collected by the taxation of the property referred to in the act, at the average rate which is imposed upon other property upon which ad valorem taxes are assessed. If we are right in what has already been said in regard to the rate being fixed by the Michigan constitution and legislature, and not by the local legislatures of the various assessing districts, then the law distinctly states the tax and the object to which it is to be applied, and does not conflict with section 14 of article XIV of the constitution of Michigan.

In reply to the objection that no hearing is provided for before the tax is imposed it is sufficient to say that if a definite rate were imposed by the constitution and statute there could be no reason for granting a hearing, because the result could not be changed, and the Michigan supreme court has in *Board of Education vs. State Board of Assessors*, 133 Michigan, 116, decided that the duty imposed by the constitution and statute upon the State board of assessors, to ascertain and determine the average rate levied on other property upon which ad valorem taxes are assessed, is ministerial and consists of a mathematical calculation. There is then no more discretion in the State board of assessors than if the rate had been named in the constitution and statute.

In *Hagar vs. Reclamation District*, 111 U. S. 701-709-710, the

court says: "Of the different kinds of taxes which the State may impose, there is a vast number of which, from their nature, no notice can be given to the taxpayer, nor would notice be of any possible advantage to him, such as poll taxes, license taxes (not dependent upon the extent of his business), and generally, specific taxes
1197 on things, or persons, or occupations. In such cases the legislature, in authorizing the tax, fixes the amount, and that is the end of the matter. If the tax be not paid, the property of the delinquent may be sold, and he be thus deprived of his property. Yet there can be no question, that the proceeding is due process of law, as there is no inquiry into the weight of evidence, or other element of a judicial nature, and nothing could be changed by hearing the tax payer. No right of his is, therefore, invaded. Thus, if the tax on animals be a fixed sum per head, or on articles a fixed sum per yard, or bushel, or gallon, there is nothing the owner can do which can affect the amount to be collected from him. So, if a person wishes a license to do business of a particular kind, or at a particular place, such as keeping a hotel or a restaurant, or selling liquors, or cigars, or clothes, he has only to pay the amount required by the law and go into the business. There is no need in such cases for notice or hearing. So, also, if taxes are imposed in the shape of licenses for privileges, such as those on foreign corporations for doing business in the State, or on domestic corporations for franchises, if the parties desire the privilege, they have only to pay the amount required. In such cases there is no necessity for notice or hearing. The amount of the tax would not be changed by it."

And in *Spencer vs. Merchant*, 125 U. S. 345-354, the court says: "The precise wrong of which complaint is made appears to be that the land owners now assessed never had opportunity to be heard as to the original apportionment, and find themselves now practically bound by it as between their lots and those of the owners who paid. But that objection becomes a criticism upon the action of the legislature and the process by which it determined the amount to be raised and the property to be assessed. Unless by special permission, that is a hearing never granted in the process of taxation. The legislature determines expenditures and amounts to be raised for their payment, the whole discussion and all questions of prudence and propriety and justice being confided to its jurisdiction. It may err, but the courts cannot review its discretion."

1198 See also—

Falbrook Irrigation District vs. Bradley, 164 U. S. 174;
Walston vs. Nevin, 128 U. S. 582;
Paulsen vs. Portland, 149 U. S. 39-40.

It is contended by the complainants that the classification of their property in the statute under which these taxes are levied is based solely on ownership, and does not include property of the same kind owned by natural persons or corporations which are taxed under the general laws of the State, and therefore denies to complainants

the equal protection of the laws. It can hardly be contended, and we do not understand that the complainants seriously urge that the fourteenth amendment, as applied to railroad corporations, does not permit a separate classification of their property for the purpose of taxation, as that question seems to have been placed, by authoritative decisions, beyond controversy.

In *Kentucky Railroad Tax Cases*, 115 U. S. 321-336-337, Mr. Justice Matthews, in delivering the opinion of the court, said: "The discrimination against railroad companies and their property, which is the subject of complaint, as being unjust and unconstitutional, arises from the fact that, in the legislation of Kentucky on the subject, railroad property, though called real estate, is classed by itself as distinct from other real estate, such as farms and city lots, and subjected to different means and methods for ascertaining its value for purposes of taxation, and differing as well from those applied to the property of corporations chartered for other purposes, such as bridge, mining, street railway, manufacturing, gas and water companies. These latter report to the auditor the total cash value of their property, and pay into the treasury as a tax, upon each \$100 of its value, a sum equal to the tax collected upon the same value of real estate; and their reports and valuations are treated as complete and perfect assessments, not subject to revision by any board or court, and conclusive upon the taxing officers. But there is nothing in the constitution of Kentucky that requires taxes to be levied

by a uniform method upon all descriptions of property. The whole matter is left to the discretion of the legislative power, and there is nothing to forbid the classification of property for purposes of taxation and the valuation of different classes by different methods. The rule of equality, in respect to the subject, only requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances. There is no objection, therefore, to the discrimination made as between railroad companies and other corporations in the methods and instrumentalities by which the value of their property is ascertained. The different nature and uses of their property justify the discrimination in this respect which the discretion of the legislature has seen fit to impose."

Mr. Justice Miller, in *State Railroad Tax Cases*, 92 U. S. 575-611-612, where a statute of Illinois made provision for the assessment of the property of railroad companies by a system different from that governing the taxation of other property, which was claimed to violate the provision of the State constitution requiring uniformity of taxes, and the fourteenth amendment to the Federal Constitution, said: "There can be no doubt that all the classes named in this clause, including peddlers, showmen, inn keepers, ferries, express, insurance and telegraph companies, are taken out of the general rule of uniformity prescribed by the first clause, and the only limitation as to them is that of uniformity as to the class upon which

the law shall operate; that is, inn keepers may be taxed by one, ferries by another, railroads by another, provided that the rule as to inn keepers be uniform as to all inn keepers, the rule as to ferries uniform as to all ferries, and the rule as to railroad companies be uniform as to all railroad companies. As we have seen no evidence that the rule by which railroad property is taxed is not uniform in its action on all the railroad companies of Illinois, we can perceive no opposition to the constitution of the State in that rule. But suppose it were otherwise; perfect equality and perfect uniformity of taxation as regards individuals or corporations, or the different classes of property subject to taxation, is a dream unrealized. It may be admitted that the system which most nearly attains this is the best. But the most complete system which can be devised, must, when we consider the immense variety of subjects which it necessarily embraces, be imperfect."

In *Pittsburgh, etc., Railway Co. vs. Backus*, 154 U. S. 421-425, a statute by which all property of individuals and ordinary corporations was subject to valuation and assessment by county officers, while the assessment of railroad property was committed to a State board of tax commissioners, was sought to be held invalid as contravening the provisions of the fourteenth amendment to the Federal Constitution. Justice Brewer, in delivering the opinion of the court, said: "Notwithstanding the elaborate attack made both in brief and argument upon this act, it seems to us that its constitutionality has been practically settled by decisions of this court, especially those in *State Railroad Tax Cases*, 92 U. S. 575, and *Kentucky Railroad Tax Cases*, 115 U. S. 321. In both of those cases legislation providing for the assessment of railroad property by a State board, while all other property in the State was assessed by county officials, was held to be obnoxious to no provision of the Federal Constitution."

In *Florida Central, etc., Railroad Co. vs. Reynolds*, 183 U. S. 471-480, a statute of Florida selected for the purpose of re-assessment of property of railroad companies which had escaped taxation, without at the same time providing for the collection of unpaid taxes on other property. This was objected to as discriminatory and in violation of the fourteenth amendment. The court, after reviewing at length cases construing and determining the application of the fourteenth amendment, held the act valid, saying: "If the State had subjected railroads to taxation, while exempting some other class of property, it would be difficult to find anything in the fourteenth amendment to overthrow its action. The mere fact that such legislation may operate with harshness is not of itself sufficient to justify the court in declaring it unconstitutional. These matters of classification are of State policy, to be determined by the State, and the Federal Government is not charged with the duty of supervising its action."

In *Columbus Southern Railway Co., vs. Wright*, 151 U. S. 470, it was held that a provision in a statute of Georgia, distributing for

taxation purposes the rolling stock and other unlocated personal property of the railroad company, for the benefit of counties traversed by the railroad, instead of taxing the property in the county where the railroad company had its principal office, does not violate the provision in the fourteenth amendment to the Constitution, that no State shall deny to any person within its jurisdiction the equal protection of the laws.

In *McHenry vs. Alford*, 168 U. S. 651-665-673, a specific tax on gross earnings in full of all taxation of land and other property of railroads, it was held did not deprive other owners of similar lands, taxed upon their value, of equal protection of the laws.

The last expression of the Supreme Court of the United States on this question was in the case of *Coulter vs. Louisville & Nashville R. R. Co.*, *supra*, in which the question of the State's right to tax the property of corporations in a different class, and at a different rate, from the other property of the State, is disposed of in a single sentence, as follows: "If it be a fact that the franchise of a Kentucky corporation is taxed at a different rate from tangible property in the State, there can be no question that the State had power to tax it at a different rate so far as the Constitution of the United States is concerned."

But the complainants contend that in the Michigan statute under consideration a different method is provided for the taxation of railroad property owned by railroad corporations, and railroad property owned by individuals and other corporations. It is stated that a number of individuals and manufacturing corporations of the State own and operate railroads, chiefly for logging purposes, but incidentally for carrying passengers and freight for hire, and that complainants' property is not legally subject to a different method of taxation than the property of these individuals and manufacturing corporations used in the same business.

The complainants are all incorporated under the statutes authorizing the incorporation of railroad companies, which statutes give to the complainants powers and privileges not enjoyed by any other corporations or individuals. It cannot be said that individuals and corporations which have no right of eminent domain and the various privileges accorded to railroad companies incorporated under the railroad statutes of the State are in the same class with railroad corporations which exercise these rights and privileges. The fourteenth amendment to the Federal Constitution permits the legislative power of the State to classify property for the purpose of taxation, according to its use by railroad companies which are given these powers and privileges. It is not necessary that all railroad property be taxed under one method and at the same rate, but it is only necessary that all property belonging to railroads in the same class be taxed alike.

If it is conceded that these logging roads owned by manufacturing corporations or individuals are railroads, they certainly are not

railroads of the same class with the complainants. It seems as though it must be as competent for the legislature to place different classes of railroads in different classes, for the purpose of taxation, as it is to place railroads in a class by themselves and tax them and their property differently from other persons. Street railroads, which are chartered by the ordinances of various cities, and electric suburban roads, organized under a general statute for that purpose, have different privileges and powers from those given to the roads organized under the general railroad statutes; and those roads built for service in the business in which individuals and manufacturing corporations are engaged have still further restricted powers and privileges, and we can see no reason why, in its discretion, the legislature may not, for purposes of taxation, place the railroads organized under the general railroad statutes in a class by themselves, leaving the other roads to be taxed under the general laws of the

1203 State, without violating the fundamental principles of taxation, or the fourteenth amendment to the Federal Constitution. The property of railroad corporations in Michigan has, previous to the present act, been taxed at a percentage of their gross earnings in lieu of other taxes, and it has never been thought that the property of a lumber company, or manufacturer, used in the operation of a private railroad in his business, came within the terms of the statute, or that the statute was unconstitutional because such property was not included.

If we are right in concluding that the property of railroad corporations may lawfully be placed in a class by itself for the purpose of taxation, and be taxed under a method entirely different from that applied to other property, then *a fortiori* it is not necessary to make provision for the equalization of the assessment of the property so taxed with the other property of the State, not so taxed.

But it is insisted by the complainants that the Michigan constitution requires all assessments to be at the cash value of the property assessed, and although it may be legal to provide for the assessment of the property of railroad corporation by a State board of assessors, and the assessment of other property of the State by local assessors, in order to have equality there must be an equalization of all the assessments, so that the property not assessed at its cash value may not pay a greater or less proportion than property so assessed.

The constitution of Michigan provides that all property paying ad valorem taxes shall be assessed at its cash value, no matter by what board or officers the assessment is made, and if the officers who make the assessments do their duty, as the law presumes they do, there is necessarily an equalization in the assessment. The argument at the hearing was founded on the presumption that there is and always has been in the State of Michigan a systematic violation of the requirements of the laws in this regard, and that an equalization is necessary so that all property may be assessed, not at its cash value, but at its relative proportion to its cash value when compared to the assessments placed on the other property in the

State. Statutes cannot be declared invalid on the ground that the officers acting under them fail to perform the duty which the statutes impose. If the complainants have been discriminated against by a systematic and fraudulent failure on the part of the assessing officers to perform their duty they may seek relief in a court of equity from the excessive burden placed upon their property by such failure, but the relief is from the misconduct of officers acting under valid statutes, and not from statutes which work injustice only when violated.

It is unnecessary to cite other authorities on this question when it has been settled by the Supreme Court of the United States, in the case of *Cummings vs. Bank*, 101 U. S. 153-160-161, where, speaking for the court, Justice Miller said: "We thus see that one board of equalization has charge of the valuation of the real estate of the whole State once in every ten years, another has charge of the valuation of railroad property every year, and a third has charge of the valuation of shares of incorporated banks every year, and the amount fixed by these State boards is in every instance the final basis of taxing that species of property for State and county purposes. We are asked to decide that, as to this final board of equalization of bank shares, whose function is to equalize the valuation of those shares, as among themselves, throughout the State, with no power to consider the valuation of real estate which comes before another board only once in ten years, or other personal property and invested capital which never comes before any State board, that its operations must necessarily produce inequality in valuation as it regards other property, and is therefore void, as in conflict with the State constitutional rule of uniformity, and with the third section of the same article of the constitution, declaring 'that all property employed in banking shall bear a burden of taxation equal to that imposed on the property of individuals.' But there are two reasons why we cannot so hold. First, it might be that in every instance the result would be the valuation of bank shares at a lower ratio in proportion to its real value than that of any other property, and therefore plaintiff would have no ground of complaint. And secondly, what is more important, if these original valuations and equalizations are based always, as the constitution requires, on the actual money value of the property assessed, the result, except as it might be affected by honest mistakes of judgment, would necessarily be equality and uniformity, so far as it is attainable. So that while it may be true that this system of submitting the different kinds of property subject to taxation to different boards of assessors and equalizers, with no common superior to secure uniformity of the whole, may give opportunity for maladministration of the law and violation of the principle of uniformity of taxation and equality of burden, that it is not the necessary result of these laws, or of any one of them; and a law cannot be held unconstitutional because, while its just interpretation is consistent with the constitution, it is unfaithfully ad-

ministered by those who are charged with its execution. Their doings may be unlawful while the statute is valid."

It is urged by complainants that the act in question denies to them the equal protection of the laws because under the general laws of Michigan, in the assessment of personal property, debits are required to be deducted from credits, while this statute requires the credits of complainants to be taxed at their cash value, without any deduction of indebtedness owed by them, making a different rule of valuation, for which no just reason exists.

Again, the right of the State to make a classification by which railroad property may be lawfully taxed by a different method from that under which other property is taxed becomes important. If the conclusion we have reached in examining the cases upon this question is correct, then all railroad property, including credits, may be taxed under a different method from that applied to other property. If the credits are a part of the railroad property, used in the railroad business, it must be permissible to place them, for purposes of taxation, with the other railroad property in the State in a separate class. The act under which these assessments were made provides that the description of the property upon the assessment roll may be "real estate, rolling stock, right of way and appurtenances thereto, and all other property used in carrying on the corporate business and subject to taxation by a State board of assessors;" 1206 and the whole act contemplates the taxation, as a unit of all the property used in carrying on the railroad business of the railroad company.

In the case of the Detroit, Grand Rapids & Western Railroad vs. Railroad Commissioner, 119 Michigan, 132, the railroad company claimed that the interest received by it on loans and deposits was not a part of the gross income received in carrying on its business within the meaning of the statute, which provided for the taxation of railroad companies at a percentage of the gross income received in carrying on its business; but the court held that the interest on loans and deposits should be included in the earnings from the railroad business for the purpose of fixing the taxes.

And in *Chamberlain vs. Walter, et al.*, 60 Fed. 788-793, Judge Simonton held that "A railroad is a unit, every part contributing to its purposes as a whole. If it be a corporation, its corporate purpose is the maintaining a railroad, and all and every part of this property must contribute to this purpose. Its right of eminent domain is limited to this purpose. This unit is made up of lands, personal property, *choses in action*, easements, all dependent upon and inseparable from each other, deriving their value from this inseparability—from the fact that they contribute to this unit. They differ from every other species of property, and the discrimination made, as between them and other corporations and individuals, in the methods and instrumentality by which the value of their property is ascertained, is not invalid. The mode prescribed by the legislature of this State is to get at the value of the plant—that is,

of all these elements going to make up the railroad—and to ascertain what their combined contributions making up this unit are worth. If they separated the component parts, and attempted to fix separate values upon them, they would enter into an impossible task."

In one class properly segregated it would be competent for the State to exempt any part of the property or all of the property, while the same kind of property in another class was made to bear the whole burden of taxation, and *a fortiori* in reducing credits by debits in one class, and not in another, or exempting credits entirely in one class and taxing them in another, does not exceed the power of the State, nor deny the equal protection of the laws. But, under the terms of the act in question the credits, as such, are not necessarily taxed, but are taken into consideration by the board, as are all of the other fourteen items in the report of the companies provided to be filed, in determining the cash value of the property as a whole. If the credits were taken into consideration and no reduction was made in the value of the property as a unit on account of indebtedness, which the company was shown to have, and the property was on that account assessed at more than its cash value, then the complainants should have appeared before the board, at its meetings, provided for by the act, for the purpose of reviewing the roll and correcting the valuation of the property, and had the valuation reduced. But if the statute could be construed to conflict with the general laws of Michigan, and it should be conceded that provision for deduction of debits from credits must be made, the statute would not be rendered void on that account, nor the assessment invalid. If the railroad company had no debts to deduct it could not be harmed, and if it had, that fact must be shown before relief could be asked. Supervisors vs. Stanley, 105 U. S. 305.

We have come to the conclusion, after a careful examination of all of the objections urged against the validity of the constitutional amendment and statute of Michigan, under which the taxes in these cases were levied, that they cannot be held to violate the Constitution of the United States; and therefore it is unnecessary for us to discuss the proposition of defendant claiming that a railroad company by voluntarily reorganizing under the general railroad law of the State, after the adoption of the constitutional amendment and legislation became subject thereto and can not question their validity.

The complainants urge that if it is ruled that there is no valid objection to the law under which these taxes were levied, that the assessments made in the year 1902, by the assessing officers generally, and in a great number of the different and various assessment districts of the State, of the property assessed otherwise than under the act in question were intentionally made at less than the true cash value of the property assessed, and that the assessments so made did not express the real judgment of

the assessing officers making the assessments, and thereby a greater rate and burden of taxation, to the extent of twenty per cent., was put by the State board of assessors upon the complainants' property than would have been put thereon if such assessments had been made by the assessing officers as required by law, and that to the extent of such excess the collection of taxes based thereon would deprive the complainants of their property without due process of law.

As we have already said, we think the court having jurisdiction of the case, notwithstanding the law has been found to be valid, has the power to examine the evidence and determine this question. In attacking these assessments the complainants must attack the judgment of officers who are by law entrusted with the determination of the value of the property, and the attack can only be effective by proving facts which make out a situation equivalent to fraud. The law is settled, and it seems to be agreed by counsel on both sides that relief from an undervaluation of the other property of the State must depend upon that undervaluation having been so habitual, systematic and intentional as to amount to fraudulent undervaluation. The complainants have shown that there are 1,300 separate assessing districts in the State of Michigan in which assessing officers prepare assessment rolls for their respective assessment districts. These assessment rolls are submitted to a local board of review, which has authority to change the valuations appearing on the rolls, and the law requires that this property shall be assessed at its true cash value.

Under the repeated and almost universal demand for equal taxation, in 1899 the legislature attempted by the organization of a board of State tax commissioners, with general supervisory power over the local assessors and authority to change the valuations placed upon the rolls to such an extent as to bring the same up to its judgment of the true cash value, to accomplish that object.

1209 The duties of the commissioners were "to take such measures as will secure the enforcement of the provisions of this act, to the end that all of the properties of the State liable to assessment for taxation shall be placed upon the assessment rolls, and assessed at their actual cash value." A table is found in the evidence, made by the board of State tax commissioners after the board was appointed and it had investigated the subject, showing that in the judgment of the board the percentage of the value of property as found on the assessment rolls ranged from 22.8 per cent. to 108.7 per cent. of its true cash value, and that there was absolutely no uniformity in the undervaluation or overvaluation of property placed on the rolls.

The commissioners attempted to force the assessing officers throughout the State to obey the law requiring them to assess all property for taxation at its true cash value. They endeavored to visit the different portions of the State and interview the assessing officers. They gathered evidence themselves and through employees, and endeavored to determine in what localities the law was being dis-

regarded and use their best efforts to correct all violations. They conferred with the assessing officers, held meetings with supervisors, and emphasized the importance of listing all property subject to taxation at its true cash value, and pointed out that equal taxation and uniformity of assessment throughout the State can be accomplished in no other way. Wherever they found undervaluations they attempted to correct them, and if they found any officials who were wilfully violating the law in regard to listing property at its true cash value they in a number of instances prosecuted such officers. The commission found that, in their judgment, few assessments of property had been made at cash value, but they endeavored to correct errors as fast as they found them.

For the year 1902, when the assessed valuation of the property not taxed under the law in question, according to the judgment of the assessing officers was \$1,418,251,858, the tax commission estimated the valuation of the same property at \$1,715,000,000. It is 1210 on account of the difference between the valuation placed upon this property by the assessing officers of the State and the valuation placed upon it by the tax commission that the complainants claim that the property not taxed under the law in question was assessed at only 82.4 per cent. of its value. Members of the State board of tax commissioners were placed upon the stand by the complainants, and testified that the old plan of assessing property at a percentage of its value still prevailed in 1902, and that they had made a return to an order to show cause in a suit brought by the board of education of the city of Detroit, heretofore referred to in the statement of this case, in which they stated that the undervaluation of the property of the State, subject to ad valorem taxes for State, county, township, school and municipal purposes, throughout the State, was not the result of accident, inadvertence or mistakes in judgment; but that undervaluation of such property was in a large number of municipalities of the State intentional and general, and that this practice of undervaluation had been in vogue in this State for a number of years, which statements they testified were true. The secretary of the board, and some of its employees also testified that in their opinion, the property not taxed under the statute in question was assessed at only a percentage of its cash value.

It would take more space than could be allowed to review all of the testimony on this branch of the case, but when the history of the tax commission, as shown in the evidence in this record, is reviewed, it cannot be questioned that they have performed their duties in an energetic and effective manner. In the year 1899, on complaint of members of the commission, a number of the assessing officers were removed for underassessment of property, and that the commission succeeded in correcting a great many assessment rolls where the property had been undervalued previous to the organization of the commission is shown by the fact that the valuation of the properties of the State, not taxed under the statute in question,

in this case, was increased from 1899 to 1900 more than three hundred and forty-nine million dollars; that is, from \$968,169,087 in 1899 to \$1,317,450,028 in 1900, an increase of more than one-
1211 third; and the aggregate value of the properties of the State, not assessed under the statute in question, in 1902 was raised to \$1,418,000,251.53, making another increase of more than one hundred million dollars. If the address of the governor to the legislature before this commission was organized, that the property of the State was assessed at only 65 per cent. of its cash value, was considered extravagant at the time, a justification for the creation of the commission can certainly be found in these figures. The testimony indicates that at the suggestion and solicitation of the commissioners the assessing officers and boards of equalization endeavored to comply with the law, and, although in the judgment of the members of the commission, they have not yet done so, it does not seem from the testimony that there was in 1902 the systematic, intentional and illegal undervaluation which is necessary before the taxes of those alleged to be discriminated against can be set aside. Whatever the custom might have been previous to 1899 among assessing officers of the State, there certainly is nothing in this record which shows that there is now any general or uniform fraudulent under-assessment, and if the properties appearing on the rolls are underassessed that conclusion must be reached by substituting the judgment of the members of the tax commission, who were sworn by the complainants in the case, and their employees, for the judgment of assessing officers. The testimony shows that the assessing officers, who reside in the districts in which the property is situated, have much better facilities for forming a judgment, and there is no testimony which shows that in the assessment of 1902, as a general rule, their judgments were not honestly formed.

In the case of the Louisville & Nashville R. R. Co. vs. Coulter, 131 Fed. 282, which was much quoted and relied upon by complainants at the hearing, it was made to appear, and it is stated in the opinion it was conceded by the defendants, that the property of the State was assessed at not more than 70 per cent. of its cash value in 1891, and that there was as much property, compared in quantity, in 1902 as
1212 in 1891; and it was shown that in the year 1891 the assessments aggregated \$480,930,623, and for the year 1902 they aggregated \$534,417,269. From this, and from other testimony in the case, and other methods of computation set up by the judge in his opinion, which counsel for complainants say was followed by the members of the tax commission in this case, he finds that there was an illegal discrimination within the requirements of the cases, and that "the taxable property in the State was systematically, habitually and intentionally undervalued to at least the extent of 20 per cent. for the year 1902, first by the local assessing officers, and then by the equalizers." The court, in its opinion said: "The way we view it, to permit the valuation of complainant's intangible property as made to stand would be a palpable violation

of its rights. It is an attempt to make it pay on a 100 per cent. valuation when the bulk of the taxpayers pay on not exceeding an 80 per cent. valuation. This of itself is sufficient to require that this court should intervene."

When this case came before the Supreme Court of the United States (*Coulter vs. Louisville & Nashville R. R. Co., supra*), the language used in reversing the decree below and dismissing the bill, when applied to the case at bar, seems to us to dispose of this contention of the complainants. Mr. Justice Holmes, in announcing the unanimous opinion of the court, said: "The undervaluation in the counties, looked at from the point of view just indicated, also does not appear to have been such as to warrant the action of the court. It is not contended that a mere undervaluation would be enough. It is admitted that it must have been systematic and intentional. There is, no doubt, a natural inclination to think such an undervaluation probable when it is suggested. But what is the proof? The State constitution, whatever the statutes may have said, seems popularly to have been understood to have made a great change in the law. Practice before its adoption, therefore, can hardly raise a presumption as to the practice afterwards, even on the liberal assumption that it properly could be considered in evidence. It is obvious that the accidental sales in a given year may be a misleading guide to average values, apart from the testimony that some at least of the conveyances did not report true prices, yet they furnish the chief weapon of attack.

1213 The testimony as to the board of equalization taking eighty per cent. of the reported sales, was explained by the members of the board. It would be going very far to assume that they were committing perjury because to another mind the sales seemed more significant and the explanations not very good. Inequality, we repeat, is nothing, unless it was in pursuance of a scheme. To make out that scheme the anomalous course was followed of putting members of a tribunal established by law upon the witness stand to testify to the operations of their minds in doing the work entrusted to them. *Fayerweather vs. Ritch*, 195 U. S. 276-306-307. But the prevailing testimony was that no such scheme was entertained. Whatever we may surmise or apprehend, making allowance for a certain vagueness of ideas to be expected in the lay mind, for the reasonable differences of opinion among the most instructed and competent men, and for the uncertainty of the elements from which a judgment was to be formed in the first instance, considering the still greater uncertainty of those from which the local judgment must be controlled, if at all, by persons having only the printed record before them, considering further that to maintain the bill imputes perjury to many witnesses whose character is not impeached, and finally recalling once more that we are dealing with a case that properly was not cognizable in the circuit court, we are of opinion that the bill must be dismissed."

The failure of complainants to show a fraudulent, intentional,

systematic undervaluation of the property not assessed under the statute under which their taxes are levied makes a determination of the question of the undervaluation of the railroad properties unnecessary.

Decrees may be entered dismissing the bills.

Opinion filed May 19th 1905.

1214

FRIDAY, May 19, 1905.

The court met pursuant to adjournment.

Present: The Honorable George P. Wanty, district judge.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Com-
plainant,

vs.

PERRY F. POWERS, Auditor General of the State of
Michigan, Defendant.

} No. 1493.

This cause having been heard upon pleadings and proofs at a previous day in the present term of court and having been taken under advisement by the court, and mature deliberation thereon having been had, it is now ordered, adjudged and decreed that the bill of complaint in this cause be and the same hereby is dismissed, and that the said defendant do recover against the said complainant his costs, by him about his defense in this cause expended, to be taxed; and that the said defendant have execution thereof.

1215 The Circuit Court of the United States for the Western
District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }

vs.

PERRY F. POWERS, Defendant. }

The above named complainant, conceiving itself aggrieved by the decree made and entered on the 19th day of May, A. D. 1905, in the above entitled cause, does hereby appeal from said order and decree to the Supreme Court of the United States for the reasons specified in the assignments of errors which is filed herewith, and prays that this appeal may be allowed and that a transcript of the record, proceedings and papers upon which said order was made, duly authenticated, may be sent to the Supreme Court of the United States.

Dated this 26th day of August, A. D. 1905.

O. E. BUTTERFIELD,
Solicitor for Complainant.

HENRY RUSSEL AND
ASHLEY POND,
Of Counsel.

The foregoing appeal is allowed.

Dated this 26th day of August A. D. 1905.

GEO. P. WANTY,
U. S. District Judge.

1216 [Endorsed:] No. 1493. The circuit court of the United States for the western district of Michigan, southern division. In equity. The Michigan Central Railroad Company, complainant, vs. Perry F. Powers, defendant. Claim of appeal. Filed Aug. 26, 1905. Chas. L. Fitch, clerk. O. E. Butterfield, solicitor for complainant and appellant.

1217 The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs. }
PERRY F. POWERS, Defendant.

The complainant prays an appeal from the final decree of this court to the Supreme Court of the United States and assigns for error:

1. Act No. 173 of the public acts of Michigan of 1901, approved May 27th, 1901, deprives complainant of its property without due process of law, in contravention of article XIV of the amendments to the Constitution of the United States.

2. Act No. 173 of the public acts of Michigan of 1901, approved May 27th, 1901, denies to complainant the equal protection of the laws, in contravention of article XIV of the amendments to the Constitution of the United States.

3. Act No. 173 of the public acts of Michigan of 1901, approved May 27th, 1901, regulates commerce among the several States, in contravention of section 8 of article I of the Constitution of the United States.

1218 4. That provision of section 11 of article XIV of the constitution of the State of Michigan, as amended at the general election held in November, 1900, which declares "that the legislature shall provide an uniform rule of taxation for such property as shall be assessed by the State board of assessors and the rate of taxation on such property shall be the rate which the State board of assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes," contravenes article XIV of the amendments to the Constitution of the United States, because it deprives complainant of its property without due process of law.

5. That provision of section 11 of article XIV of the constitution of the State of Michigan, as amended at the general election held in

November, 1900, which declares "that the legislature shall provide an uniform rule of taxation for such property as shall be assessed by the State board of assessors and the rate of taxation on such property shall be the rate which the State board of assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes," contravenes article XIV of the amendments to the Constitution of the United States, because it denies to complainant the equal protection of the laws.

6. Said act No. 173 of the Michigan public acts of 1901, if enforced, would take complainant's property without due process of law, in violation of the fourteenth amendment to the Constitution of the United States, for the following several reasons, each of which is separately assigned as ground upon which the decree of 1219 the circuit court dismissing the complainant's bill should be reversed, viz:—

(a.) Due process of law requires in taxation that the tax be levied by a legislative body which is chosen by and acts for the community that includes the person or contains the property taxed and receives the tax.

(b.) The tax under such act is not imposed by the State legislature, but by the local legislatures of counties, towns, cities, villages and school districts in Michigan which do not represent complainant as to its property beyond the jurisdiction of such local legislatures.

(c.) The moneys demanded from the complainant are not taxes at all but arbitrary and forced contributions to the State so that their exaction would be taking of private property for public use without compensation.

(d.) Due process of law requires a hearing of the tax payer upon the amount of his tax, and this right of hearing extends to the amount or rate of tax as well as to the assessment or value upon which the tax must be made.

7. Said act No. 173 of the Michigan public acts of 1901, if enforced, would deny to complainant the equal protection of the laws, in violation of the fourteenth amendment to the Constitution of the United States for the following several reasons, each of which is separately assigned as ground upon which the decree of the circuit court dismissing the complainant's bill should be reversed, viz:—

(a.) While all others in Michigan are given the benefit and protection of having the amount of their taxes fixed by a representative legislature, that fundamental protection is denied complainant.

1220 (b.) Complainant's taxes are fixed in large part by executive officers, while other taxes in Michigan have their amount determined legislatively.

(c.) Other taxes in Michigan are fixed with reference to and in such amount as is deemed necessary to meet the needs of the community that pays the taxes and is to receive them, but complainant's taxes are fixed without reference to the needed revenue of the State which receives them.

(d.) Complainant is denied the protection of such legislative restraint upon the consequences to it of erroneous assessments throughout the State as is afforded by Michigan legislation to all others.

(e.) Complainant is denied such privilege of hearing concerning the amount of its taxes as the Michigan laws grant to all others.

(f.) All tax payers other than those of the class to which complainant belongs pay taxes founded upon the expenses of the State government and of the local governments whose benefits they enjoy and upon the private investment of the local communities to which they belong, while complainant is taxed because of the expenses of governments whose benefits it does not share and of private local investments in whose ownership and use it does not participate.

(g.) Equalization of assessments is denied to complainant, while it is accorded to tax payers of all other classes in Michigan.

(h.) Debits are deducted from credits in the assessment of the property of all other classes of tax payers in Michigan, while no such deduction is made in the assessment of the property of the complainant.

1221 (i.) Personal property of the complainant not used in its railroad business is taxed after the average rate plan under said act, though there can be no justification for taxing it otherwise than like personal property of other tax payers.

(j.) Complainant's credits not used in or incident to its business are taxed under said act, though there can be no constitutional propriety in treating such credits under another plan of taxation than is applied to credits generally.

(k.) Said act applies only to property owned by corporations and does not apply to property of the same kinds and used in the same kinds of business when owned by a natural person.

(l.) The corporations enumerated in said act are arbitrarily and unreasonably separated for taxation from other corporations of essentially the same character.

(m.) Complainant is denied the protection of article XIV, section 14, of the Michigan constitution which, for the benefit of all but tax payers of the class of which complainant is one, requires that "every law which imposes, continues or revives a tax, shall distinctly state the tax and the objects to which it is to be applied;" and further that "it shall not be sufficient to refer to any other law to fix such tax or object."

(n.) Discrimination of a real and hurtful kind is made by said act between railroads themselves in the taxation of railroad property because they are made to pay the same rate of tax though their properties are situated in different places and therefore receive the benefits of different local governments and participate in the advantage of different local investments. It is not equal taxation to

1222 apply the same rate to properties under different governments; and equal taxation must be applied to properties of the same kind put to the same uses, and even owned by the same sort of owners, viz. corporations.

8. The constitution of Michigan, as amended by the change of

sections 10, 11 and 13 of article XIV, made at the general election held in November, 1900, still requires uniformity in the assessment of all property subjected to ad valorem taxes; and act No. 173 of the Michigan public acts of 1901 contravenes the constitution of Michigan in that debits are not deducted from credits under said act, though debits are deducted from credits in the assessment for taxation of other property than that taxed under said act No. 173; and so the assessment of property for taxation under said act No. 173 is not uniform with the assessment of other property in Michigan taxed ad valorem. Such lack of uniformity in the assessment of property under act No. 173 and the assessment of other property violates sections 10 and 11 of article XIV of the constitution of Michigan, as amended in 1900.

9. The assessment of complainant's property under act No. 173 of the Michigan public acts of 1901, without deduction of debits from credits, while under the laws of Michigan debits were deducted from credits in the assessment of the property of others, for ad valorem taxation under the laws of Michigan, violated the requirement of uniform assessment of property subjected to ad valorem taxation made by the Michigan constitution.

10. The assessment of complainant's property under act No. 173 of the Michigan public acts of 1901, without deduction of debits from credits, violated section 12 of article XIV of the Michigan constitution requiring all assessments on property to be at its cash value.

1223 11. The assessment of complainant's property under act No. 173 of the Michigan public acts of 1901 violated the provision of section 10 of article XIV of the Michigan constitution, as amended at the election held in November, 1900, requiring property of corporations assessed by the State board of assessors to be assessed at its true cash value.

12. The assessment of complainant's property, upon which is founded the tax involved in this suit, was made at the property's true cash value. The rate imposed upon the property of complainant by the proceedings in question in this case was the average rate paid upon property in the State, other than that taxed under said act No. 173 of the Michigan public acts of 1901, upon which ad valorem taxes were assessed for State, county, school and municipal purposes. The evidence shows that such other property was uniformly, intentionally and generally assessed at the time in question at not more than eighty-two+per cent. (82+ %) of its true cash value; and seventeen—per cent. (17+ %) of the tax in question, therefore, should be set aside.

13. The circuit court of the United States erred in dismissing complainant's bill.

Wherefore, complainant prays that the decree of the said circuit court be reversed.

O. E. BUTTERFIELD,
Solicitor for Complainant,

HENRY RUSSEL,
ASHLEY POND,
Of Counsel.

1224 [Endorsed:] No. 1493. The circuit court of the United States for the western district of Michigan, southern division, In equity. Michigan Central Railroad Company complainant vs. Perry F. Powers, defendant. Assignments of error. Filed Aug. 26, 1905 Chas. L. Fitch clerk. O. E. Butterfield, solicitor for complainant.

1225 Know all men by these presents, that we, The Michigan Central Railroad Company, as principal, and O. E. Butterfield and Charles M. Wilson, as sureties, are held and firmly bound unto Perry F. Powers in the full and just sum of one thousand dollars (\$1,000.00) to be paid to the said Perry F. Powers, his certain attorneys, executors, administrators or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 26th day of August A. D. 1905.

Whereas, lately at the circuit court for the western district of Michigan, southern division in equity, in a suit depending in said court between The Michigan Central Railroad Company, complainant, and Perry F. Powers, defendant, a decree was rendered against the said Michigan Central Railroad Company and the said Michigan Central Railroad Company having appealed from the said court to the Supreme Court of the United States to reverse the decree and a citation having been issued directed to the said Perry F. Powers, citing and admonishing him to be and appear at a session of the Supreme Court of the United States on the 25th day of September next.

Now the condition of the above obligation is such that if the said Michigan Central Railroad Company shall prosecute its appeal to effect and answer all damages and costs if it fail to make its appeal good, then the above obligation to be void; otherwise to remain in full force and virtue.

THE MICHIGAN CENTRAL RAIL-
ROAD COMPANY,

By J. CARSTENSEN, Vice-President.

[Seal of the Michigan Central Railroad Company.]

Attest:

D. W. PARDEE, Secretary.

O. E. BUTTERFIELD.

[L. S.]

CHAS. M. WILSON.

[L. S.]

1226 Sealed and delivered in presence of:

Approved by:

GEO. P. WANTY,

U. S. District Judge.

STATE OF MICHIGAN, }
 County of Kent, } ^{ss}:

O. E. Butterfield of Detroit, Michigan, and Charles M. Wilson of Grand Rapids, Michigan, sureties on the foregoing bond, being duly sworn, say and each for himself says:

That he is worth the sum of one thousand dollars, the penalty of the within bond, over and above all legal exemptions, debts and liabilities.

O. E. BUTTERFIELD.
 CHAS. M. WILSON.

Subscribed and sworn to before me this 26th day of August, 1905.

MARY S. TOOKER,
 Notary Public, Kent County, Michigan.

My commission expires Apr. 25, 1909.

1227 [Endorsed:] No. 1493. The circuit court of the United States for the western district of Michigan, southern division. In equity. Michigan Central Railroad Company, complainant, vs. Perry F. Powers, defendant. Bond on appeal. Filed Aug. 26, 1905. Chas. L. Fitch, clerk. O. E. Butterfield, solicitor for complainant.

1228 UNITED STATES OF AMERICA, ^{ss}:

The President of the United States to Perry F. Powers, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States at the city of Washington on Monday September 25th 1905 pursuant to an appeal duly allowed by the circuit court for the western district of Michigan, southern division, in equity, and filed in the clerk's office of said court on the 26th day of August A. D. 1905, in a case wherein The Michigan Central Railroad Company is appellant and you are appellee, to show cause, if any, why the decree rendered against the said appellant as in the said appeal mentioned should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George P. Wanty, judge of the circuit court of the United States for the western district of Michigan, this 26th day of August A. D. 1905.

GEO. P. WANTY,
 U. S. District Judge of the Western District of Michigan.

Service of a copy of the within citation is hereby admitted this 26th day of August A. D. 1905.

JNO. E. BIRD,
 Attorney General, Attorney for Appellee.
 LOYAL E. KNAPPEN,
 Of Counsel.

1229 [Endorsed:] No. 1493. The circuit court of the United States for the western district of Michigan, southern division. In equity. The Michigan Central Railroad Company, complainant, vs. Perry F. Powers, defendant. Citation. Filed Aug. 26 1895. Chas. L. Fitch, clerk.

1230 The Circuit Court of the United States for the Western District of Michigan, Southern Division. In Equity.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant, }
vs.
PERRY F. POWERS, Defendant. }

To the clerk of said court:

We hereby agree and consent that the record on appeal this day presented to the clerk of this court by Mr. O. E. Butterfield, solicitor for complainant, contains the pleadings and all the evidence necessary to the hearing of said cause on appeal, and all the evidence which should be included in the transcript thereof, together with a copy of the final decree entered in this cause, of the bond on appeal, and the original claim of appeal and order allowing same, assignments of error and citation filed herein.

Dated this 1st day of September, A. D. 1905.

O. E. BUTTERFIELD,
Solicitor for Complainant.
JNO. E. BIRD,
Attorney General, Solicitor for Defendant,
By ROGER IRVING WYKES,
LOYAL E. KNAPPEN,
Of Counsel.

1231 [Endorsed:] No. 1493. The circuit court of the United States for the western district of Michigan, southern division. In equity. Michigan Central R. R. Co. vs. Perry F. Powers, auditor general. Stipulation as to record on appeal. Filed Sep. 1, 1905. Leolyn O. Tenhopen, deputy clerk.

1232 THE UNITED STATES OF AMERICA, }
Western District of Michigan, Southern Division, } ss:

I, Charles L. Fitch, clerk of the United States circuit court for the western district of Michigan, do hereby certify that the annexed and foregoing is the record on appeal as stipulated to by the solicitors for the respective parties in said cause, and that I have added thereto a true and compared copy of the final decree entered in said cause and of the bond on appeal filed therein, and have also attached hereto the original claim of appeal and order allowing

same, assignments of error, citation and stipulation filed in said cause, the whole constituting the transcript on said appeal as made up in conformity to the stipulation of said solicitors.

Witness my official signature and the seal of said court at the city of Grand Rapids in said district and division on this first day of September in the year of our Lord one thousand nine hundred and five and of the Independence of the United States of America the one hundred and thirtieth.

{ Seal of the U. S. Circuit Court, Western District of }
 { Mich., Southern Division. }

CHARLES L. FITCH, Clerk,
 By LEOLYN O. TENHOPEN,
 Deputy Clerk.

Endorsed on cover: File No. 19,899. W. Michigan C. C. U. S. Term No. 397. The Michigan Central Railroad Company, appellant, vs. Perry F. Powers, auditor general of the State of Michigan. Filed September 6th, 1905. File No. 19,899.

Supreme Court of the United States, October Term, 1905.

No. 397.

THE MICHIGAN CENTRAL RAILROAD COMPANY, Complainant and Appellant,

vs.

PERRY F. POWERS, Auditor General of the State of Michigan, Defendant and Appellee.

It is hereby agreed between counsel for the respective parties that the transcript of record be and is amended (with the permission of the Court) by inserting at the end of page 119 of the original transcript (being about the middle of page 75 of the printed transcript) the following testimony:

"Q. When did you review the assessments in Detroit first? A. We have had some special reviews, we have never had any general review in Detroit.

Q. Did you have any special reviews in 1902? A. Yes, sir.

Q. And 1901? A. 1901 and 1902.

Q. What do you think the percentage was in the city of Detroit with reference to true cash value? A. It showed up there, from the examinations had, 101.

Q. 101? A. Yes, sir.

Q. Then you would say, wouldn't you, that was assessed at the true cash value? A. I would, yes, sir.

Q. Then the counties of Wayne, Kent, Bay, Saginaw, Jackson and Kalamazoo, for 1902, were up to their true cash value in every case? A. No, sir, I wouldn't want to say that. Wayne County is not now up to 100 % outside of Detroit.

Q. The other counties Mr. Twiss said were up to true cash value? A. Yes, I think that is true.

Q. You think that Detroit was at true cash value but not the county of Wayne? A. No, sir.

Q. Take the county as a whole, about what would be the percentage, do you think? A. I would not like to say, we have not concluded our findings.

Q. You are not in a position to determine about that yet? A. No, sir."

Dated February 20, 1906.

O. E. BUTTERFIELD,
Solicitor for Appellant.

JNO. E. BIRD,
Att'y Gen'l, Solicitor for Appellee.
ROGER IRVING WYKES,
LOYAL E. KNAPPEN,
Of Counsel.

[Endorsed:] No. 397. Supreme Court of the United States. The Michigan Central R. R. Co., Complainant & Appellant, vs. Perry F. Powers, Auditor General of the State of Michigan, Defendant & Appellee. Stipulation amending Record.

[Endorsed:] File No. 19,899. Supreme Court U. S. October Term, 1905 Term No. 397. The Michigan Central R. R. Co., App't, vs. Perry F. Powers, Auditor General &c. Stipulation for addition to record. Filed Feb. 20, 1906.